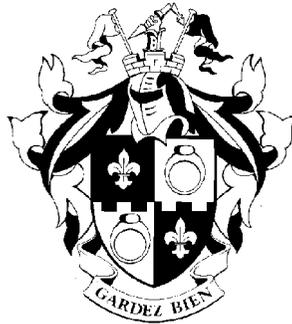


HIRING PERSONS WITH DISABILITIES: A REVIEW OF COUNTY GOVERNMENT PRACTICES



OFFICE OF LEGISLATIVE OVERSIGHT
REPORT NUMBER 2008-9

JUNE 10, 2008

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**HIRING PERSONS WITH DISABILITIES:
A REVIEW OF COUNTY GOVERNMENT PRACTICES**
OFFICE OF LEGISLATIVE OVERSIGHT REPORT 2008-9 / JUNE 10, 2008

BACKGROUND

In 2006, approximately 83,000 (10%) of Montgomery County residents reported having one or more disabilities. That same year, 79% of persons *without* disabilities were employed while only 54% of persons *with* disabilities were employed.

Federal, State, and County laws protect persons with disabilities, as defined by those laws, from discrimination in the workplace based on a disability – including in the hiring process. The federal Americans with Disabilities Act (ADA) also requires the County Government to provide “reasonable accommodations,” when requested, to qualified individuals with disabilities. A reasonable accommodation is any modification to a job, employment practice, or work environment allowing a person with a disability to enjoy an equal employment opportunity.

Citing the higher rate of unemployment for persons with disabilities and the County’s legal responsibility not to discriminate in the workplace based on a disability, the County Council asked the Office of Legislative Oversight (OLO) to conduct a study of the County Government’s efforts to hire persons with disabilities.

GENERAL RESEARCH

Persons with disabilities face persistent barriers to employment, including some employers’ presumptions about persons with disabilities, the structure of jobs, and the personal circumstances of the job seeker. However, studies on the economic impact of hiring persons with disabilities find that employees with and without disabilities have comparable on-the-job performance, longevity rates, and absentee rates. Studies consistently show that the cost of providing a reasonable accommodation to an employee with a disability averages less than \$500.

The research suggests that employers who want to increase their hiring of persons with disabilities must adopt strategies that break down common barriers to employing persons with disabilities. The major strategies currently being used by employers in the public and private sector are:

- Developing leadership and top management commitment to hiring persons with disabilities;
- Training and educating managers and other staff on hiring and working with persons with disabilities;
- Targeting recruitment efforts to increase the number of applicants with disabilities;
- Improving accessibility in the recruitment and hiring process;
- Improving access to reasonable accommodations; and
- Providing opportunities for persons with disabilities to gain job experience.

The Federal Government, State of Maryland, and other state and local governments have implemented programs and policies to increase the hiring of persons with disabilities. The table below offers some examples.

JURISDICTION	PROGRAMS AND PRACTICES
Federal Government	<ul style="list-style-type: none"> • Offers a non-competitive hiring authority (“Schedule A”) for qualified persons with disabilities. • Developed comprehensive standards for designing accessible websites.
State of Maryland	<ul style="list-style-type: none"> • Offers internships (12-weeks, with stipend) in State government for persons with disabilities. • Created an alternative process to add applicants with disabilities to the list of candidates eligible for a State job if a reasonable accommodation cannot provide a fair and equal opportunity for the applicant to take required employment tests.
Miami-Dade County, Fla.	<ul style="list-style-type: none"> • Developed a manual that explains in detail how to request, evaluate, fund, and provide reasonable accommodations.
City of Chicago, Ill.	<ul style="list-style-type: none"> • Appointed a task force to identify opportunities to improve public and private sector employment for persons with disabilities in Chicago. • Mandates manager training on employing persons with disabilities.
King County, Wash.	<ul style="list-style-type: none"> • Tracks number of employees with disabilities in the County workforce.

MERIT SYSTEM RECRUITMENT AND HIRING PRACTICES

General Practices. The County Government addresses issues related to persons with disabilities in several parts of the merit system hiring process. For example, Office of Human Resources (OHR) staff:

- Work with hiring managers throughout County Government to ensure that preferred criteria developed for open positions will not unnecessarily, or illegally, screen out applicants with disabilities;
- Participate in career fairs that target persons with disabilities and have advertised open positions on job websites that provide services for jobseekers with disabilities; and
- Developed *Selection Guidelines for Montgomery County: A Users Guide for Hiring Managers*, which includes some information about hiring persons with disabilities.

Collecting Disability Data on Job Applicants. The County Government does not ask job applicants to voluntarily disclose their disability status when applying for County jobs. As federal law allows, the County Government requires all applicants with conditional offers of employment to disclose disability-related information on a “Report of Applicant’s Medical History” form. For certain jobs, applicants must also undergo a physical exam. The County does not compile disability data for tracking purposes from applicants’ medical history forms.

PROVIDING REASONABLE ACCOMMODATIONS

OHR’s Occupational Medical Services Team reviews requests for reasonable accommodations, determines whether an applicant is a person with a disability who qualifies for an accommodation under the ADA, and decides whether an appropriate accommodation exists for a job. The County Government has no written procedures that outline the process for requesting, evaluating requests for, or appealing the denial of a request for a reasonable accommodation.

OHR administers a central fund (\$15,000 in FY08) to help County Government departments defray the cost of reasonable accommodations over \$500. No guidelines have been developed for the fund, and OHR does not publicize its availability.

OHR established a Worker Assistance Program in FY06 to provide accommodations to employees or applicants who do not qualify as “disabled” under the ADA but could still benefit from assistance. OHR does not have written guidelines for this program and there is no information about the program on the County Government’s website or routinely distributed to County departments.

EQUAL EMPLOYMENT OPPORTUNITY (EEO) AND DIVERSITY ACTION PLAN

The County Government compiles data and information about County Government activities related to EEO and diversity in the Government’s EEO & Diversity Action Plan. The Government most recently published an EEO & Diversity Action Plan in 2004.

The County Government compiles data about the number of internal complaints alleging discrimination based on disability filed against the County Government. Between 2003 and 2007, County Government employees filed a total of 33 complaints against the County Government. Of these 33 complaints, the County’s EEO/ Diversity Team concluded that there was sufficient evidence to believe that discrimination occurred in three complaints. The Office of the County Attorney reports that no lawsuits have been filed in court against the County Government in the past four years alleging discrimination based on disability.

COUNTY GOVERNMENT TRAINING

While the County does not mandate managers take a training course dedicated to topics surrounding the hiring of persons with disabilities, a number of County Government courses address issues related to persons with disabilities in general. Currently, mandatory County Government courses that address persons with disabilities, either in general or in the hiring process, are: the employee orientation program, EEO/ Diversity Management for Managers and Supervisors, Interviewing and Selecting Employees (required for individuals serving on hiring panels), and Preventing Workplace Harassment (required for all County Government employees).

ONLINE JOB APPLICATIONS AND WEBSITE ACCESSIBILITY

The County publishes job vacancy announcements on its website and has an online job application process. Under federal law (the ADA), the County Government's website, including these features, must be accessible to persons with disabilities. Individual County Government departments are responsible for ensuring that their own website information and service features are accessible for persons with disabilities.

The County Government's only formal website accessibility standards are posted on the County Government's intranet. This guidance states that all web information and resources must be accessible and designed for use by screen readers and other specialized software; provides a link to a U.S. Department of Justice publication on website accessibility; and identifies individual department information technology staff as the resource for assistance with making websites accessible to persons with disabilities

No single individual is designated either in the Public Information Office or the Department of Technology Services for hands-on assistance with designing accessible websites. Further, no staff member has been assigned specific responsibility for monitoring website accessibility or for verifying accessibility of individual department websites.

CUSTOMIZED EMPLOYMENT PUBLIC INTERN PROJECT

In FY08, the County Government launched a new program for hiring persons with disabilities as part-time interns. The project provides short-term, part-time, non-merit system County Government jobs for persons with disabilities.

The FY08 program budget includes \$50,000 for a Project Coordinator and \$100,000 for intern salaries. The Project Coordinator works with department staff to identify unmet department tasks and create a position based on those tasks. Job applicants must provide proof of disability and be able to perform the specified tasks. As of March 2008, the County had hired 23 interns in five departments and three additional positions had been created, but not filled.

ADMINISTRATIVE PROCEDURE 1-10 (REVISED IN 2003)

Administrative Procedure (AP) 1-10 establishes a process for the County Government to contract for services from organizations that employ persons with disabilities. In FY08, the County Government has three AP 1-10 contracts – one for library book sorting and two for custodial services. The value of these three contracts over the total life of the contracts is \$532,771.

AP 1-10 outlines an inter-departmental process for developing these contracts, which involves the Chief Administrative Officer, Department of Health and Human Services, and the Office of Procurement. Current practices for developing these contracts do not strictly adhere to the process outlined in the AP.

RELATED ISSUES

Special Hiring Authority for Merit System Jobs. A recurring question raised by those interviewed for this study was whether the County Government could develop a special hiring authority to hire persons with disabilities into County Government merit system jobs. The County Attorney has concluded that establishing an alternative hiring process for merit system positions for persons with disabilities would require an amendment to the County Charter.

RECOMMENDATIONS

OLO offers four recommendations to the Council aimed at enhancing the County Government’s policies and practices related to hiring persons with disabilities.

#1 Make hiring persons with disabilities a more visible County Government practice. OLO recommends that the Council ask the Chief Administrative Officer (CAO) to raise the visibility of hiring persons with disabilities across all County Government departments. Specific actions could include:

- Identifying a senior County Government staff member to serve as a “champion” for the County Government’s employment of persons with disabilities;
- Providing more frequent and visible publicity and training on the hiring of persons with disabilities; and
- Convening an inter-departmental task force to recommend new strategies to increase attention across all departments and offices to the issues surrounding the hiring of persons with disabilities.

#2 Review the County Government’s current merit system hiring practices related to the hiring of persons with disabilities. OLO recommends the Council ask the CAO to review the following County Government merit system practices and consider the recommended revisions.

TOPIC FOR REVIEW	RECOMMENDED REVISION
County Government Interview Guidelines	Advise interviewers that job applicants’ communication skills vary and common assumptions about “good” skills may disproportionately screen out persons with disabilities.
Providing Reasonable Accommodations	Establish and publicize written guidelines outlining all aspects (from application to appeal) of the reasonable accommodation process.
Paying for Reasonable Accommodations	Publicize the fund established in the Office of Human Resources to help departments pay for reasonable accommodations.
Worker Assistance Program	Develop written guidelines and publicize the Worker Assistance Program, which provides accommodations for individuals who could benefit from assistance but are not considered “disabled” under the ADA.
Website Accessibility	Review the County Government’s website for ADA compliance; develop written guidelines to inform departments’ efforts to develop accessible information and online services.
Employee Training	Develop a mandatory training course for County Government managers dedicated to issues surrounding hiring persons with disabilities.

#3 Monitor the progress of the Customized Employment Public Intern Project and request an Executive Branch review of Administrative Procedure 1-10. The County launched the Customized Employment Intern Project in FY08. OLO recommends that the Council request annual updates from the CAO to monitor the program’s progress and results for the next several years. Additionally, OLO recommends that the Council ask the CAO to review AP 1-10 to improve alignment of written requirements with practice.

#4 Discuss and decide whether to pursue a Charter amendment related to the structure of the merit system hiring process. OLO recommends that the Council explicitly discuss and decide whether to pursue a Charter amendment to enable the County Government to establish a special hiring authority within the merit system for hiring persons with disabilities.

For a complete copy of OLO Report 2008-9, go to: www.montgomerycountymd.gov/olo.
This document is available in alternative formats upon request.

OFFICE OF LEGISLATIVE REPORT 2008-9

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C	Essential Job Functions Form	C1
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N	Customized Employment Public Intern Project <ul style="list-style-type: none"> • Application Procedures, • Informational Intake Form, and • Sample Task Lists 	N1
N1	Letters from the Commission on People with Disabilities and the County Executive	N1-1
O	Memorandum from Steven Gilbert, Assistant County Attorney, to Jane Lawton, Special Assistant to the County Executive (July 21, 1994)	O1

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Q	U.S. EEOC <i>ADA Enforcement Guidance: Preemployment Disability-Related Questions and Medical Examinations</i> (1995)	2
State of Maryland		
R	Non-Visual Accessibility Checklist for Web Sites	3
Miami-Dade County, Florida		
S	<i>Americans with Disabilities Act Reasonable Accommodation Countywide Procedures Manual</i>	4
City of Chicago		
T	<i>Reasonable Accommodation Procedures for Employees and Applicants with Disabilities</i>	5
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CHAPTER I. Authority, Scope, and Organization of Report

A. AUTHORITY

Council Resolution 16-260, *Fiscal Year 2008 Work Program of the Office of Legislative Oversight*, adopted July 31, 2007.

B. SCOPE AND ORGANIZATION OF REPORT

Citing the disproportionately high unemployment rate of persons with disabilities, the Council requested that the Office of Legislative Oversight (OLO) review the County Government's efforts to hire persons with disabilities. The scope of OLO's study included:

- Identifying the common barriers to employment faced by persons with disabilities;
- Reviewing promising practices implemented by the federal government and other state and local governments for employing persons with disabilities in public sector jobs;
- Researching the legal framework governing the County Government's hiring of persons with disabilities; and
- Evaluating the County Government's current policies and practices for hiring persons with disabilities.

The report is organized as follows:

Chapter II, Definitions and Statistics, describes how the term "disability" is defined in different contexts and includes statistical information about the number of persons with disabilities and the unemployment rate for persons with disabilities.

Chapter III, Laws Prohibiting Discriminating Against Persons with Disabilities, provides an overview of the federal, state, and local laws that prohibit discrimination against persons with disabilities in employment.

Chapter IV, Employment Barriers Faced by Persons with Disabilities and Remedial Strategies, describes barriers to employment faced by persons with disabilities and summarizes strategies to increase employment of persons with disabilities.

Chapter V, Programs and Practices in the Public Sector, describes current efforts to promote and increase hiring of persons with disabilities by the federal government and by other state and local jurisdictions.

Chapter VI, Laws and Regulations Governing County Government Recruitment and Hiring Practices, summarizes the laws and regulations governing Montgomery County Government's hiring of persons with disabilities.

Chapter VII, Montgomery County Government Programs and Practices, reviews the County Government's current efforts to hire persons with disabilities and to comply with laws prohibiting the County Government from discriminating in the employment process against persons with disabilities.

Chapter VIII, Related Issues, describes additional topics related to the County Government's hiring of persons with disabilities.

Chapters IX and X present **OLO's Findings and Recommendations**.

Chapter XI presents the **Executive Branch's Comments** received on a final draft of this report.

C. METHODOLOGY

Office of Legislative Oversight staff members Leslie Rubin and Jennifer Renkema conducted this study. OLO gathered information through general research, document review, and individual and group interviews. OLO worked with County Government staff from:

- Department of Health and Human Services (DHHS);
- Office of Human Resources (OHR);
- Office of Procurement;
- Office of the County Attorney (OCA);
- Department of Public Works and Transportation (DPWT);
- Department of Correction and Rehabilitation (DOCR);
- Montgomery County Public Libraries (MCPL); and
- Department of Economic Development.

OLO also sought input from members of the Montgomery County Commission on People with Disabilities, representatives from non-profit providers of services to persons with disabilities, and some community members who contacted OLO to discuss selected issues. Finally, OLO contacted representatives of the federal government and other state and local jurisdictions about their policies and practices related to hiring persons with disabilities.

D. ACKNOWLEDGEMENTS

OLO received a high level of cooperation from everyone involved in this study. OLO owes a special thanks to staff in the Department of Health and Human Services, the Office of Human Resources, and the Office of the County Attorney for the time taken to meet extensively with OLO staff and respond to OLO's information requests.

Below are the names of individuals with whom OLO consulted during the course of conducting this study. We greatly appreciate the information shared and the insights provided by all individuals who participated. These individuals are listed alphabetically below.

COUNTY GOVERNMENT

- Joe Adler, Office of Human Resources
- Kaye Beckley, Office of Human Resources
- Kathleen Boucher, Office of the County Executive
- Eric Carzon, Montgomery County Public Libraries
- Bill Clark, Department of Health and Human Services
- Commission on People with Disabilities
- Lisa Cuzzo, TransCen, Inc./MontgomeryWorks
- Robert Green, Department of Correction and Rehabilitation
- Nancy Greene, Department of Health and Human Services
- Marc Hansen, Office of the County Attorney
- Carolyn Jones, Department of Public Works and Transportation
- Pam Jones, Office of Procurement
- Barbara Kaufman, Department of Economic Development
- Jay Kenney, Department of Health and Human Services
- Patrick Lacefield, Office of Public Information
- Ed Lattner, Office of the County Attorney
- Betsy Luecking, Department of Health and Human Services
- Julie Mack, Office of Human Resources
- Dorothy Miller, Office of Human Resources
- Karla Nabors, Montgomery College
- Lauren Newman, Department of Health and Human Services
- Marie Parker, TransCen, Inc./MontgomeryWorks
- Karen Plucinski, Office of Human Resources
- John Polletto, Department of Public Works and Transportation
- Rick Siebert, Department of Public Works and Transportation
- Madalena Shamoun, Department of Health and Human Services
- Chuck Short, Office of the County Executive
- Rob Todd, Office of Public Information
- Patricia Via, Office of the County Attorney
- Angela Washington, Office of Human Resources
- Anne Windle, Office of the County Attorney
- Ricky Wright, Office of Human Resources

OTHER JURISDICTIONS

- Bill Collins, Employee Relations Department, Miami-Dade County, Florida
- Sharon Corrigan, Mayor's Office on People with Disabilities, City of Chicago
- Deidre Dessommes, U.S. Office of Personnel Management
- Keven Franklin, Disability Services, King County, Washington
- Lisa Guilmette, U.S. Equal Employment Opportunity Commission
- Jade Ann Gingerich, Maryland Department of Disabilities
- LaTonja Hunter, Workforce Diversity Office, State of Washington
- Carolyn Jones, Mayor's Office for People with Disabilities, City of Chicago
- Betsy Kravitz, Workforce Recruitment Program, U.S. Department of Labor
- Carol Maher, Department of General Administration, State of Washington
- Toby Olson, Governor's Committee on Disability Issues and Employment, State of Washington
- Charles Parkinson, Capital Budget Coordinator, Miami-Dade County, Florida
- Sharon Rennert, U.S. Equal Employment Opportunity Commission
- Steve Serra, Maryland Department of Management and Budget*
- Sharon Smith, Fair Employment Practices, Miami-Dade County, Florida

COMMUNITY MEMBERS

- Sharon Allender, Transition Work Group
- Lyda Astrove, Disability Advocate
- Kathy Bridgeman, Transition Work Group
- LaVerne Buchanan, Transition Work Group
- Joy Christie, Outcomes
- Roger Deason, Transition Work Group
- Susan Goodman, Disability Advocate
- Susan Ingram, Community Support Services, Inc.
- Joan Karasik, Transition Work Group
- Shawn Lattanzio, Transition Work Group
- Karen Lee, SEEC
- Karen Leggett, Transition Work Group
- Alan Lovell, CHI Centers, Inc.
- Betty Newton, Transition Work Group
- Diana Thompson, Transition Work Group

In addition, OLO acknowledges the valuable assistance provided by OLO staff member Teri Busch.

*This person spoke with OLO based on employment with the department listed; however, the person is no longer employed by that department.

CHAPTER II. Definitions and Statistics

This chapter defines the term “disability” and summarizes demographic and employment data on persons with disabilities who reside in Montgomery County.

- **Section A, “Disability” Defined**, reviews different definitions for the term “disability;” and
- **Section B, Data on the Number of and Unemployment Rate for Persons with Disabilities**, summarizes demographics and employment statistics for persons with disabilities from the U.S. Census Bureau.

A. “DISABILITY” DEFINED

Formal and working definitions of the term “disability” vary. Table 2-1 (page 6) lists some of the most common definitions of disability used by the Federal Government. Montgomery County’s Personnel Regulations adopt the definition of disability contained in the Americans with Disabilities Act (ADA).¹

An alternative approach found in the research literature on persons with disability is a four-stage framework that defines disability based on an individual’s limited ability or inability to participate in “socially expected” activities.²

- Stage 1: A person experiences a physical or mental *pathology*.
- Stage 2: An *impairment* occurs when the physical or mental pathology results in a loss of function.
- Stage 3: A *functional limitation* occurs when a person’s impairment limits his or her ability to complete daily activities (e.g., reading, walking).
- Stage 4: *Disability* occurs when a person’s functional limitation prevents him or her from participating in “socially expected” activities, such as paid employment. This final stage represents disability.³

Critics of this type of definition believe that it places too much attention on a person’s deficits and not enough on societal and environmental factors that influence a person’s ability to fulfill a social role.⁴

¹ Personnel Regulations § 8-1(d).

² Houtenville, A. J., *Disability Statistics in the United States*, Cornell University Rehabilitation Research and Training Center (2008). See www.disabilitystatistics.org. Pope, A.M. & A.R. Tarlov (Eds.), *Disability in America: Toward a National Agenda for Prevention*, National Academy Press at 79-83 (1991).

³ *Toward a National Agenda for Prevention* at 79-83.

⁴ See National Institute on Disability and Rehabilitation Research; Notice of Proposed Long-Range Plan for Fiscal Years 1999-2004, U.S. Department of Education, 64 Fed. Reg. 45,751- 45,752 (Aug. 20, 1999).

Other definitions build on this framework, but also examine whether environment affects whether a functional limitation will result in a disability. For example, including a ramp in a building may reduce the effect of a person’s inability to walk.⁵

Definitions of the term disability also vary based on their purpose (see Table 2-1). For example, a survey may allow a person to self-identify as having a disability, but a program providing income assistance to persons with disabilities might require proof of a medical condition and associated limitations.

**Table 2-1
Common Definitions of Disability Adopted by the Federal Government**

Purpose of Definition	Source of Definition	Definition
Legal	The Americans with Disabilities Act ⁶	A person with a disability: <ol style="list-style-type: none"> 1. Has a physical or mental impairment that substantially limits one or more major life activities; 2. Has a record of such an impairment; or 3. Is regarded as having such an impairment.
Affirmative Action and Special Hiring Authorities	Equal Employment Opportunity Commission ⁷	<p><i>Reportable Disabilities:</i> Any self-identified disability reported by an employee to an employing agency.</p> <p><i>Targeted Disabilities:</i> Disabilities that the federal government, as a matter of policy, has identified for special emphasis. The targeted disabilities are deafness, blindness, missing extremities, partial paralysis, complete paralysis, convulsive disorders, mental retardation, mental illness, and distortion of limb and/or spine.</p>
Program Eligibility	Social Security Disability Insurance ⁸	To be considered disabled, a person must be unable to work based on the following criteria: <ol style="list-style-type: none"> 1. The person cannot do work that he/she did before; 2. Social Security determines the person cannot adjust to other work because of the medical condition(s); and 3. The person’s disability has lasted or is expected to last for at least one year or to result in death.
American Community Survey	U.S. Census Bureau ⁹	A disability is “a long-lasting sensory, physical, mental, or emotional condition or conditions that make it difficult for a person to do functional or participatory activities such as seeing, hearing, walking, climbing stairs, learning, remembering, concentrating, dressing, bathing, going outside the home, or working at a job.”

⁵ Brandt, E.N. & A.M. Pope. (Eds.), *Enabling America: Assessing the role of rehabilitation science and engineering*, National Academy Press at 148, 152-53, (1997).

⁶ 42 U.S.C. § 12101 et seq.

⁷ *Annual Report on the Federal Workforce: Fiscal Year 2006*, U.S. Equal Employment Opportunity Commission at Appendix I-6 (2006).

⁸ *What We Mean by Disability*, U.S. Social Security Administration. Available at <http://www.ssa.gov/dibplan/dqualify4.htm>.

⁹ *American Community Survey, 2006 Subject Definitions*, U.S. Census Bureau (2006). Available at http://www.census.gov/acs/www/Downloads/2006/usedata/Subject_Definitions.pdf

B. DATA ON THE NUMBER OF AND UNEMPLOYMENT RATE FOR PERSONS WITH DISABILITIES

The first part of this section presents data on the numbers of persons with disabilities in Montgomery County, the State of Maryland, and in the United States. It is followed by a review of data on unemployment rates for persons with disabilities.

1. Numbers of Persons with Disabilities

The American Community Survey, conducted annually by the U.S. Census Bureau, provides data on the number of persons with disabilities and the prevalence of six different types of disabilities. Table 2-2 contains the definitions of the different disabilities tracked by the survey.

**Table 2-2
Definitions of Disabilities Tracked by the American Community Survey**

Disability	Definition
Sensory	A long lasting condition that includes blindness, deafness, severe vision or hearing impairment (ages five and older).
Physical	A long-lasting condition that substantially limits one or more basic physical activities such as walking, climbing stairs, reaching, lifting, or carrying (ages five and older).
Mental	A physical, mental, or emotional condition lasting at least six months that makes learning, remembering, or concentrating difficult (ages five and older).
Self-Care	A physical, mental, or emotional condition lasting at least six months that makes dressing, bathing, or getting around inside the home difficult (ages five and older).
Go-Outside-Home	A physical, mental, or emotional condition lasting at least six months that makes going outside the home alone to shop or visit a doctor's office difficult (ages 16 and older).
Employment	A physical, mental, or emotional condition lasting at least six months that makes working at a job or business difficult (ages 16-64).

Source: American Community Survey, U.S. Census Bureau (2006)

In sum, the American Community Survey data contained in the three tables on the next page show that in 2006:

- 9.8% (83,600) of persons in Montgomery County reported having one or more disabilities. This compares to 12.8% of persons in Maryland and 15.1% of persons across the U.S. (Table 2-3)
- In Montgomery County, 10% of persons reporting a disability were between the ages of five and 15 years old, 50.3% were between 16 and 64 years old, and 39.7% were 65 years old and older. (Table 2-4)
- Among respondents with disabilities in Montgomery County, 54.5% reported a physical disability, 37.7% reported a mental disability, 27.0% reported a sensory disability, and 17.3% reported a self-care disability. (Table 2-5)

Table 2-3
Percent of Population with a Disability, 2006

Geographic Area	Percent of Population with One or More Disabilities
United States	15.1%
Maryland	12.8%
Montgomery County	9.8%

Source: American Community Survey, U.S. Census Bureau (2006)

Table 2-4
Montgomery County Population with Disabilities by Age, 2006

Age Group (years)	Number of Persons with One or More Disabilities	Percent of Persons with Disabilities
5 to 15	8,324	10.0%
16 to 64	42,072	50.3%
65 and over	33,204	39.7%
Total	83,600	100.0%

Source: American Community Survey, U.S. Census Bureau (2006)

Table 2-5
Persons with Disabilities by Age and Type of Disability, Montgomery County, 2006*

Age Group (years)	Sensory disability	Physical disability	Mental disability	Self-Care disability	Go-Outside-Home disability	Employment disability
5 to 15 (N=8,324)	17.1%	12.1%	82.7%	11.9%	N/A	N/A
16 to 64 (N=42,072)	20.0%	52.5%	36.7%	15.1%	25.0%	43.9%
65 and over (N=33,204)	38.3%	67.7%	27.9%	21.4%	46.3%	N/A
Total All Ages (N=83,600)	27.0%	54.5%	37.7%	17.3%	N/A	N/A

Source: American Community Survey, U.S. Census Bureau (2006)

*Table 2-2 provides definitions for the six types of disabilities. Totals within age groups add up to more than 100 percent due to multiple responses.

2. Data on Unemployment Rates for Persons with Disabilities

There are few sources of rigorous data on the unemployment rate for persons with disabilities. This section reviews data published by the 2006 American Community Survey and the 2000 Harris Survey, which was conducted for the National Organization on Disability.

Both of these surveys define the unemployment rate as the percent of the *total working age population* (i.e., 16-64 years old) that is not employed. These data do not differentiate among the following groups:

- People who want to work but are not working;
- People who choose not to work; and
- People who cannot work because of a disability.

While this is informative, it differs substantially from the definition of “unemployment rate” most commonly cited in the published data on national and local unemployment. Specifically, instead of calculating unemployment as a percent of the *total working age population*, most unemployment data calculates unemployment rates as the percent of the *labor force* (i.e., people working, looking for work, or waiting to be called back to a job from which they were laid off) that is not employed.¹⁰

Table 2-6 presents the American Community Survey’s data on the employment rate and unemployment rate *for the total working age population* in 2006 across the United States, in the State of Maryland, and in Montgomery County, both for persons with and without disabilities. In sum, these data show that in 2006:

- 46.2% of persons with a disability in Montgomery County were not employed. This compares to 62.8% in the United States and 57.4% in Maryland.
- Persons without disabilities had a higher employment rate in 2006 than persons with disabilities. Nationwide, the gap was 37.9 percentage points; in Montgomery County, the gap was 24.8 percentage points.

Table 2-7 contains data from a 2000 national study conducted by the Harris Poll for the National Organization on Disability. These data illustrate the impact of differentiating among groups when describing the gap in employment between people with and without disabilities.¹¹ In sum, the Harris study found:

¹⁰*How the Government Measures Unemployment*, U.S. Bureau of Labor Statistics (2001). Available at http://www.bls.gov/cps/cps_htgm.htm. For example, the February 2008 U.S. unemployment rate published by the U.S. Bureau of Labor Statistics was 4.8%.

¹¹*Employment Rates of People with Disabilities*, National Organization on Disability/Harris 2000 Survey of Americans with Disabilities (2000). Available at <http://www.nod.org>.

- Among people 18 to 64 years old, 68% of persons with disabilities and 19% without disabilities were not working – a gap of 49%. (Table 2-7)
- However, 43% of persons with disabilities who were not working reported they were unable to work because of their disability.
- If this group is taken out, only 44% of persons with disabilities believed they could work, but were not working, compared to 19% of people without disabilities who were not working – a gap of 25%. (Table 2-7)

Table 2-6
Employment Status by Presence of a Disability,
Population Ages 16-64, 2006*

Geographic Area	2006 Employment		Percentage Point Difference
	Persons With a Disability	Persons Without a Disability	
United States			
Employed	37.2%	75.1%	-37.9%
Not Employed	62.8%	24.9%	37.9%
Maryland			
Employed	42.6%	78.3%	-35.7%
Not Employed	57.4%	21.7%	35.7%
Montgomery County			
Employed	53.8%	78.6%	-24.8%
Not Employed	46.2%	21.4%	24.8%

Source: American Community Survey, U.S. Census Bureau (2006)

*Only includes non-institutionalized population¹²

Table 2-7
Percentage of Population Ages 18-64 Years With and
Without Disabilities *Not Working*, Harris Survey, 2000

Disability Status	Percent of Population Not Working
Total Population Not Working	
With a Disability	68%
Without a Disability	19%
<i>Difference</i>	49%
Those Reporting the Ability to Work but Not Working	
With a Disability	44%
Without a Disability	19%
<i>Difference</i>	25%

Source: Harris Survey, 2000

¹² Non-institutionalized populations are not under supervised care or custody in a correctional, nursing, inpatient hospice, psychiatric, or group home facility, or a residential care facility for juveniles (U.S. Census Bureau, 2006).

CHAPTER III. Laws Prohibiting Discriminating Against Persons with Disabilities

The federal, state, and County anti-discrimination laws and regulations that govern the County's employment practices with respect to persons with disabilities are:

- The Americans with Disabilities Act (ADA) and related regulations (Federal);
- The Fair Employment Practices Act (State of Maryland); and
- Montgomery County Code Chapter 27, Human Relations and Civil Liberties.

In sum, these laws and related regulations prohibit employers, including the County Government, from discriminating against persons with disabilities in all aspects of employment, including recruitment and hiring.

This chapter reviews the definitions of "disability" contained in each of these laws and summarizes the prohibited practices. It also includes a description of the ADA's provisions requiring employers to provide reasonable accommodations for employees. County Code Chapter 33, Personnel and Human Resources, and the County Government's Personnel Regulations outline the process and rules for the County's hiring process. These laws and processes are discussed in more detail in Chapters VI and VII (on pages 42 and 54).¹³

A. FEDERAL LAW – THE AMERICANS WITH DISABILITIES ACT

The Americans with Disabilities Act (ADA) prohibits employers from discriminating against a "qualified individual with a disability because of the disability" in employment practices, including recruitment and hiring of employees.¹⁴ A person is a "qualified individual with a disability" under the ADA and entitled to protection from discrimination only if the person "can perform the essential functions" of a job "with or without a reasonable accommodation."¹⁵

1. Definition of "Disability" Under the ADA

An individual is considered "disabled" under the ADA if the person:

- Has "a physical or mental impairment that substantially limits one or more of the major life activities of" the person;
- If a person has a record of such an impairment; or
- If a person is perceived as having an impairment.¹⁶

¹³ Compliance with the ADA guides many parts of the County's Personnel Regulations and County practices.

¹⁴ 42 U.S.C. § 12112(a); 42 U.S.C. § 12111(5); see also 29 C.F.R. § 1630.4.

¹⁵ 42 U.S.C. § 12111(8).

¹⁶ 42 U.S.C. § 12102(2).

This definition of “disabled” has two major components:

- A person must have (currently, in the past, or be perceived as having) a “physical or mental impairment;” and
- The impairment must “substantially limit” one or more of the person’s “major life activities.”¹⁷

The term “physical or mental impairment” means:

- (1) Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine; or
- (2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.¹⁸

The term “major life activity” refers to “functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.”¹⁹

With respect to the major life activity of working, “substantially limits” means:

[S]ignificantly restricted in the ability to perform either a class of jobs or a broad range of jobs in various classes as compared to the average person having comparable training, skills and abilities. The inability to perform a single, particular job does not constitute a substantial limitation in the major life activity of working.²⁰

The federal regulations governing the ADA identify factors to consider when determining whether an individual is substantially limited in the major life activity of working.

Examples of these factors include:

- The nature and severity of the impairment;
- The duration or expected duration of the impairment;
- The geographical area to which the individual has reasonable access; and

¹⁷ See 42 U.S.C. § 12102(2).

¹⁸ 29 C.F.R. § 1630.2(h).

¹⁹ Ibid. § 1630.2(i).

²⁰ Ibid. § 1630.2(j)(3)(i). A person does not need to be substantially limited in the major life activity of “working” to be considered a qualified individual with a disability under the ADA. A person only needs to be substantially limited in a major life activity. See *Technical Assistance Manual: Title I of the ADA*, U.S. Equal Employment Opportunity Commission § 2.2(a)(iii) (January 1992) [hereinafter *ADA Technical Assistance Manual*] (See Appendix P online for a copy of this manual).

- The job from which the individual has been disqualified because of an impairment, and the number and types of jobs utilizing similar training, knowledge, skills or abilities, within that geographical area, from which the individual is also disqualified because of the impairment.²¹

2. Prohibited Discrimination

The ADA prohibits employers from engaging in the following types of discrimination against qualified individuals with a disability:

- Classifying or grouping a job applicant because of a disability in a way that negatively impacts job opportunities or status;
- Setting standards, criteria, or methods of administration that have the effect of discriminating against a person with a disability because of the disability, or that perpetuate discrimination;
- Excluding a person from a job or from benefits because of the person's association with someone with a known disability;
- Not making reasonable accommodations for qualified persons with disabilities;
- Denying employment opportunities to a qualified applicant with a disability because an employer does not want to provide a reasonable accommodation;
- Using standards, tests, or other criteria that screen out persons with disabilities, unless they are job-related and consistent with business necessity; and
- Using and administering employment tests in a way that will inaccurately reflect the skills or aptitude of a person because the person has a disability that impairs sensory, manual, or speaking skills.²²

Employers are prohibited from engaging in the types of discrimination described above in a variety of recruitment and hiring activities, including:

- Recruiting;
- Advertising for jobs;
- Setting job application procedures;
- Setting rates of pay or "any other form of compensation;"
- Hiring employees;
- Assigning jobs;
- Classifying jobs; and
- Creating position descriptions.²³

²¹ See 29 C.F.R. § 1630.2(j)(2), (3).

²² 42 U.S.C. § 12112(b).

²³ 29 C.F.R. § 1630.4.

3. Determining the Essential Functions of a Job

A person who has a disability as defined by the ADA is entitled to protection under the law only if the person is a “qualified individual with a disability.”²⁴ A person is a “qualified individual with a disability” if the person can perform the “essential functions” of a job “with or without a reasonable accommodation.”²⁵

The “essential functions” of a job include “the fundamental job duties” of a position and exclude a position’s “marginal functions.”²⁶ Examples of when a job function may be considered “essential” are:

- The position exists to perform the function;
- There are a limited number of employees available to perform a job function; and
- A function is highly specialized and an employee is hired for expertise or ability to perform the function.²⁷

The ADA regulations also give seven non-exclusive examples of evidence to show that a job function is essential:

- The employer’s judgment;
- Written job descriptions prepared before a job is advertised and before interviews;
- The amount of time spent performing a function;
- The consequences of an employee not performing the function;
- Terms of collective bargaining agreements;
- Work experience of former employees in the same job; and
- Work experience of current employees in similar jobs.²⁸

4. Providing Reasonable Accommodations

If a person is considered disabled under the ADA, an employer must provide the person with a “reasonable accommodation,” if necessary, to allow the person to perform the essential functions of a job, unless an accommodation places an “undue hardship” on business operations.²⁹ A reasonable accommodation is “a modification or adjustment to a job, the work environment, or the way things are usually done that enables a qualified individual with a disability to enjoy an equal employment opportunity.”³⁰

²⁴ 42 U.S.C. § 12112(a).

²⁵ 42 U.S.C. § 12111(8).

²⁶ 29 C.F.R. § 1630.2(n)(1).

²⁷ 29 C.F.R. § 1630.2(n)(2).

²⁸ 29 C.F.R. § 1630.2(n)(3).

²⁹ 42 U.S.C. §§ 12111(8), 12112(b)(5).

³⁰ *ADA Technical Assistance Manual* § 3.3.

Examples of reasonable accommodations include:

- “[M]aking existing facilities used by employees readily accessible to and usable by individuals with disabilities”;
- Job restructuring;
- Part-time or modified work schedules;
- Reassignment to a vacant position;
- Acquisition or modification of equipment or devices;
- Adjustment or modification of examinations, training materials, or policies; and
- Providing qualified readers or interpreters.”³¹

During the hiring process, information about job openings should be accessible to people with disabilities and employers must provide necessary reasonable accommodations for applicants during the interview process.³²

B. MARYLAND LAW – THE FAIR EMPLOYMENT PRACTICES ACT

Under Maryland law, it is illegal for an employer to “fail or refuse to hire” an individual because the individual has a disability.³³ It is also illegal for employers to discriminate against individuals with disabilities in apprenticeship, training, or retaining programs and when advertising jobs.³⁴ Montgomery County is an employer covered by the state law.³⁵

Under Maryland law, individuals are considered disabled if they have:

Any physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness including epilepsy, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impairment, deafness or hearing impairment, muteness or speech impediment or physical reliance on a seeing eye dog, wheelchair, or other remedial appliance or device; and any mental impairment or deficiency as, but not limited to, retardation or such other which may have necessitated remedial or special education and related services.³⁶

Maryland state law also authorizes individuals who believe that they have been discriminated against in violation of *County law* to sue the person who committed the discrimination in Circuit Court.³⁷

³¹ 42 U.S.C. § 12111(9).

³² *ADA Technical Assistance Manual* §§ 5.2, 5.5(f).

³³ Md. Code Ann., art. 49B, § 16(a)(1).

³⁴ *Ibid.* § 16(d), (e).

³⁵ *Ibid.* § 15(b). See also *Cohen v. Montgomery County Dept. of Health and Human Services*, 817 A. 2d 915, 923 (Md. App. 2003).

³⁶ Md. Ann. Code art. 49B, § 15(g).

³⁷ *Ibid.* § 42(a), (b).

C. COUNTY HUMAN RIGHTS LAW

Under the County’s Human Rights law (County Code Chapter 27, Human Rights and Civil Liberties), it is illegal for an employer to “fail or refuse to hire, fail to accept the services of . . . or otherwise discriminate against any individual” because of the individual’s disability.³⁸ It is also illegal to print or publish an advertisement for a job that indicates a “preference, limitation, or specification” based on a person’s disability that is not “a bona fide occupational qualification for employment reasonably necessary to the normal operation of the particular business or enterprise.”³⁹ Prohibited discrimination includes “excluding, or otherwise denying, equal job opportunity or benefits to” an individual because the person has a “known” relationship or association with an individual with a disability.⁴⁰

Under County law, “disability” means:

[A] physical or mental impairment that substantially limits one or more of an individual’s major life activities, a record of having such an impairment, being associated with an individual with a disability, or being regarded as having such an impairment. The term also includes:

- (1) any physiological disorder or condition, cosmetic disfiguration, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitor-urinary, blood and lymphatic, skin and endocrine;
- (2) alcoholism or prior drug dependency or current medically supervised drug dependency; or
- (3) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.⁴¹

³⁸ Montgomery County Code (MCC) § 27-19(a)(1)(A).

³⁹ MCC § 27-19(d).

⁴⁰ MCC § 27-19(b).

⁴¹ MCC § 27-6.

CHAPTER IV. Employment Barriers Faced by Persons with Disabilities and Remedial Strategies

This chapter presents key findings from the published research on barriers to employment for persons with disabilities, reviews the different categories of employer strategies used to alleviate those barriers, and summarizes findings on the costs and benefits to employers of hiring persons with disabilities. The next chapter provides specific examples of public sector programs aimed at improving practices for recruiting and hiring persons with disabilities.

A. BARRIERS TO EMPLOYMENT FOR PERSONS WITH DISABILITIES

The research on employment policies and practices provides substantial evidence that persons with disabilities face many barriers that prevent them from getting jobs – both in the public and private sectors.⁴² Barriers originate both from an employee’s personal circumstances and from employers. The Equal Employment Opportunity Commission’s (EEOC) *ADA Technical Assistance Manual* summarizes the types of barriers faced by persons with disabilities as follows:

Many people with disabilities . . . are excluded from jobs that they are qualified to perform because of unnecessary barriers in the workplace and the work environment. . . . People with disabilities are restricted in employment opportunities by many different kinds of barriers. Some face physical barriers that make it difficult to get into and around a work site or to use necessary work equipment. Some are excluded or limited by the way people communicate with each other. Others are excluded because of rigid work schedules that allow no flexibility for people with special needs caused by disability. Many are excluded only by barriers in other people's minds; these include unfounded fears, stereotypes, presumptions, and misconceptions about job performance, safety, absenteeism, costs, or acceptance by co-workers and customers.⁴³

⁴² See Bruyere, S., *Disability Employment Policies and Practices in Private and Federal Sector Organizations*, Cornell University School of Industrial and Labor Relations Extension Division, Program on Employment and Disability at 15 (2000) [hereinafter *Disability Employment Policies and Practices in Private and Federal Sector Organizations*]; Bruyere, S., Erickson, W., & Horne, R., *Survey of the Federal Government on Supervisor Practices in Employment of People with Disabilities*, Cornell University School of Industrial and Labor Relations Extension Division, Program on Employment and Disability at 20 (2002) [hereinafter *Survey of the Federal Government on Supervisor Practices*]; Dixon, K., Kruse, D., & Van Horn, C., *Restricted Access: A Survey of Employers About People with Disabilities and Lowering Barriers to Work*, John J. Heldrich Center for Workforce Development, Rutgers at 13-14 (2003) [hereinafter *Restricted Access*]; Loprest, P. & Maag, E., *Barriers to and Supports for Work among Adults with Disabilities: Results from the NHIS-D*, The Urban Institute at 8-9 (2001); *Empowerment for Americans with Disabilities: Breaking Barriers to Careers and Full Employment*, National Council on Disability at 19-20 (2007) [hereinafter *Empowerment for Americans with Disabilities*].

⁴³ *ADA Technical Assistance Manual* § 3.2.

Exhibit 4-1 lists commonly cited barriers to employment faced by persons with disabilities.

**Exhibit 4-1
Barriers to Employment for Persons with Disabilities**

Employer Barriers	Personal Barriers
<ul style="list-style-type: none"> • Employer discomfort or reluctance to hire persons with disabilities • Lack of information about reasonable accommodations (e.g., type of accommodation needed, policies/procedures for obtaining accommodation) • Cost of providing reasonable accommodations • Other increased costs (e.g., travel, supervision, training) • Fear of litigation based on the Americans with Disabilities Act (ADA) 	<ul style="list-style-type: none"> • Lack of adequate education, training, skills • Lack of job experience • Risk of losing benefits (e.g., SSI/SSDI, Medicare, housing assistance) • Need for accommodations • Lack of transportation • Health care needs • Lack of information about jobs • Family responsibilities • Discouraged by family or friends • Fear of discrimination on the job (e.g., denial of training, promotion, or transfers)

In some cases, employer’s recruitment and hiring processes pose barriers to persons with disabilities. For example, in one survey of private sector employers, 85% of respondents reported that their place of business was physically accessible to persons with disabilities. However, between two-thirds and three-quarters of these same employers had not taken steps to ensure that their websites, job recruitment methods, job applications, or tests/evaluations were also accessible to persons with disabilities.⁴⁴

With increased use of the Internet for conducting business, website accessibility can also be a significant barrier to employment for persons with disabilities, especially to those with visual, auditory, or tactile impairments. Many employers now use their websites for job recruitment purposes, including:

- Posting open positions;
- Providing information about application processes; and
- Providing an online application process.

Websites that are accessible to persons with disabilities must be designed to interact well with assistive technology for persons with disabilities – such as screen reader software, Braille displays, alternative keyboards or mice, and screen magnifiers.⁴⁵

⁴⁴ *Restricted Access* at 14-15. See Chapter III, p. 11, for a summary of employers’ legal obligation to eliminate discrimination from hiring practices.

⁴⁵ *Web Content Accessibility Guidelines 1.0*, World Wide Web Consortium at 5-6 (1999) [hereinafter *Web Content Accessibility Guidelines*].

B. EMPLOYER STRATEGIES TO ADDRESS EMPLOYMENT BARRIERS

The research suggests that employers who want to increase their hiring of persons with disabilities must find and adopt strategies that break down employment barriers. The rest of this chapter reviews the major types of strategies being used by employers in the public and private sectors to increase the hiring of persons with disabilities. The following chapter, “Programs and Practices in the Public Sector,” offers specific examples of how federal, state, and local governments are using these strategies.

Strategy #1: Developing leadership and top management commitment

Leadership can have a strong impact on an organization’s efforts to hire persons with disabilities. In surveys of supervisors in federal government agencies, over 80% of respondents believed that visible top management commitment was effective in addressing barriers to hiring persons with disabilities.⁴⁶ A 2005 EEOC study on state practices related to hiring persons with disabilities found that states’ policies and practices frequently originated from executive or legislative action.⁴⁷

Strategy #2: Training and educating managers and other staff

Employers can increase their efforts to train managers, supervisors, and other employees on issues related to hiring persons with disabilities. Examples of relevant topics on which to focus training include: ADA requirements, reasonable accommodations, defining essential job functions, interacting with people with disabilities, and general attitudes and concerns about working with persons with disabilities.⁴⁸

Strategy #3: Targeting recruitment efforts

Employers can increase recruitment and hiring of persons with disabilities by broadening their recruitment pool.⁴⁹ Examples of targeted recruitment efforts include: creating a special pool of applicants with disabilities; increasing recruitment efforts among agencies that provide job training and employment to people with disabilities; and targeting job announcements to people with disabilities.

Strategy #4: Improving accessibility in the recruitment and hiring process

Reviewing and modifying job announcements, application forms, testing requirements, and interview practices can eliminate language or practices that inadvertently screen out

⁴⁶ *Disability Employment Policies and Practices in Private and Federal Sector Organizations* at 15-16; *Survey of the Federal Government on Supervisor Practices* at 20-21.

⁴⁷ *Final Report: Best Practices for the Employment of People with Disabilities in State Government*, Equal Employment Opportunity Commission at v (2005) [hereinafter *Best Practices in State Government*]. The EEOC is the federal agency responsible for enforcing the employment provisions in the Americans with Disabilities Act.

⁴⁸ *Disability Employment Policies and Practices in Private and Federal Sector Organizations*.

⁴⁹ *Best Practices in State Government* at 5-7.

applicants with disabilities. Employers can also ensure that their websites and interview locations are accessible for persons with disabilities.⁵⁰

Standards for website accessibility for persons with disabilities include:

- Presenting information using clear, simple language in a format that is easy to navigate either with or without screen-reader software;
- Including text descriptions of pictures and other non-text elements that can be read by screen-reader software;
- Providing closed-captioning or descriptions of audio content;
- Allowing users to adjust font size;
- Displaying sufficient color contrast and not using color alone to provide information;
- Allowing users to request more time before a website automatically times out; and
- Ensuring that users can navigate and complete electronic forms using assistive technology.⁵¹

Strategy #5: Improving access to reasonable accommodations

The Americans with Disabilities Act requires employers to provide a “reasonable accommodation” to a qualified applicant or employee with a disability unless doing so would create an undue hardship to the employer.⁵² Research shows, however, that employers and hiring managers fear the costs associated with providing reasonable accommodations and lack information about how to provide accommodations.⁵³

Examples of strategies used by employers to improve hiring managers’ awareness of and comfort with providing reasonable accommodations are:

- Establish a “culture of flexibility” that provides assistance and flexibility to all employees regardless of disability;
- Establish a written procedure for requesting, granting, denying, and appealing denials of reasonable accommodations;
- Provide funding outside of managers’ budgets to pay for reasonable accommodations; and
- Create an assistive technology loan program that managers can access temporarily to meet accommodation requests.⁵⁴

⁵⁰ *Ibid.* at 8-9, 11, 28.

⁵¹ “Chapter 5, Website Accessibility Under Title II of the ADA.” *ADA Best Practices Tool Kit for State and Local Governments*, U.S. Department of Justice at 4-7 (2007); *Web Content Accessibility Guidelines* at 10-23.

⁵² 42 U.S.C. § 12112(b)(5)(A).

⁵³ *Disability Employment Policies and Practices in Private and Federal Sector Organizations* at 15; *Restricted Access* at 14.

⁵⁴ *Empowerment for Americans with Disabilities* at 36, 39-41; *Best Practices in State Government* at 14-22.

Strategy #6: Providing opportunities for job experience

Employers can create opportunities that let persons with disabilities gain employment experience or demonstrate their ability to work. Opportunities can include internships, customized or supported employment, or other jobs outside of the standard employee selection process.

Supported employment programs provide paid employment for persons with severe disabilities in a traditional work setting. According to the U.S. Department of Labor, supported employment programs aim to achieve “development of new skills, increased community participation, enhanced self-esteem, increased consumer empowerment, and quality of life.”⁵⁵

Supported employment has three key components:

- Employees receive the same pay and benefits as other employees with similar jobs.
- Work occurs in an integrated setting where people with disabilities work with and participate in the same activities as people without disabilities; and
- Employees with disabilities receive ongoing support from a disability employment program, which may provide transportation, a job coach, or other assistance. A job coach provides specialized training and supervision for the employee at the worksite.⁵⁶

Customized employment programs provide work opportunities for persons with disabilities that are tailored to the interests and abilities of the employee and the needs of the employer. Most customized employment programs use the following basic process:

- A job developer at an employment agency for persons with disabilities works with a job candidate to determine the person’s interests and abilities. Together, the job developer and person with a disability develop a list of tasks that they could perform in a work setting.
- The job developer approaches potential employers about creating a customized position for a person with a disability. The job developer and employer explore the employer’s business needs.
- When an employer expresses interest, the job developer and job candidate negotiate with the employer to establish a customized job description and terms of employment. They may create the job description by identifying unmet needs or carving out tasks from existing positions.
- The job developer provides ongoing support to the employee with a disability and the employer to ensure that both parties’ needs are being met.⁵⁷

⁵⁵ *Supported Employment*, U.S. Department of Labor.

⁵⁶ *Ibid.*

⁵⁷ *Customized Employment: Applying Practical Solutions for Employment Success, Volume 2*, Office of Disability Employment Policy, U.S. Department of Labor at 1-6, 10-14.

C. FINDINGS ON THE COSTS AND BENEFITS OF HIRING PERSONS WITH DISABILITIES

A study of employers that accessed resources from the U.S. Department of Labor's Job Accommodation Network (JAN)⁵⁸ from 2004-2006 found that employers derive direct and indirect benefits from providing reasonable accommodations to persons with disabilities. Specifically, providing reasonable accommodations:

- Allowed employers to retain, promote, or hire qualified persons with disabilities;
- Increased an employee's and the company's productivity;
- Improved an employee's interaction with co-workers; and/or
- Improved company moral.⁵⁹

In terms of the costs of providing reasonable accommodations, the study found that:

- 46% of accommodations for employees and job applicants with disabilities had no cost, 45% involved a one-time cost, 7% included an ongoing cost, and 2% required a one-time cost and an ongoing cost.
- The average cost for a reasonable accommodation was under \$500.⁶⁰

In 2007, DePaul University completed a study of the economic impact of hiring people with disabilities in Chicago-area private sector employment. The study included focus groups with company administrators and data collection on employees with and without disabilities.

Data from participating companies and employees showed that:

- Employees with disabilities remained on the job for an average of 5% longer than employees without disabilities;
- Employees with and without disabilities had similar absenteeism rates; and
- Employees with and without disabilities had nearly identical job performance ratings and need for supervision.⁶¹

The study found that employers provided reasonable accommodations to 18% of employees with disabilities.⁶² Thirty-seven percent of accommodations were free. Among those that did have a cost, costs ranged from \$13 to \$2,000, with an average cost of \$313.⁶³

⁵⁸ JAN is a service of the U.S. Department of Labor's Office of Disability Employment Policy that offers free consultation on reasonable accommodations.

⁵⁹ *Workplace Accommodations: Low Cost, High Impact*, JAN. Available at <http://www.jan.wvu.edu/media/index.htm>.

⁶⁰ Frequently Asked Questions, JAN. Available at <http://www.jan.wvu.edu/portals/faqs.html#fund>.

⁶¹ *Exploring the Bottom Line: A Study of the Costs and Benefits of Workers with Disabilities*, DePaul University at 9-14 (2007) [hereinafter *Exploring the Bottom Line*].

⁶² *Ibid.* at 16-17. To obtain this information, researchers compared a list of employees who self-identified as having or not having a disability to a list from the employers of employees who received an accommodation. No accommodations were provided for employees who did not identify as having a disability.

⁶³ *Ibid.* at 17.

Administrators in focus groups reported that employees with disabilities had low absenteeism, low turnover, reliability, and a strong work ethic. Administrators also reported that employees with disabilities contributed to a “positive work environment.”⁶⁴

A study of accommodations provided by Sears, Roebuck and Co., found that 75% of accommodations had no cost and the average cost for an accommodation was less than \$30.⁶⁵ This same study found that the administrative cost to replace an employee was up to 40 times higher than the cost of providing an accommodation to allow an employee to remain employed. The study’s author concluded that “[t]he degree to which Sears and other companies examined comply with the ADA’s accommodation provision appears to have more to do with their corporate cultures, attitudes, and business strategies than with meeting the law’s minimal obligations.”⁶⁶

Finally, an article examining the economics of providing accommodations cites several studies that found that providing reasonable accommodations provides positive benefits to employers.⁶⁷ The studies found “that disabled workers receiving accommodations had lower job turnover rates and equivalent or lower absenteeism rates”⁶⁸ The article also notes that the studies have found that employees who receive reasonable accommodations exhibit “higher productivity and greater dedication.”⁶⁹

⁶⁴ *Ibid.* at 8.

⁶⁵ Blanck, P., “Empirical Study of Disability, Employment Policy, and the ADA,” 23 *Mental & Physical Disability Law Reporter* 275, 280 (1999).

⁶⁶ *Ibid.*

⁶⁷ Stein, M. A., “The Law and Economics of Disability Accommodations,” 53 *Duke Law Journal* 79, 104 (2003).

⁶⁸ *Ibid.* at 104-05.

⁶⁹ *Ibid.* at 105.

CHAPTER V. Programs and Practices in the Public Sector

This chapter reviews programs and practices implemented by the federal government, the State of Maryland, and selected other state and local governments aimed at improving recruitment and hiring practices for persons with disabilities. The chapter also includes a section of other publicly-supported initiatives that provide assistance to employers and to persons with disabilities looking for work. In each jurisdiction, OLO interviewed program staff and reviewed available written materials and program data.

The table below provides a list of the jurisdictions, the programs described, and the associated employer strategy or strategies being demonstrated. (The broad categories of strategies were identified in Chapter IV – see page 19.)

**Table 5-1
Summary of Public Programs and Strategies that
Address Barriers to Employment for Persons with Disabilities**

Program	Strategies Demonstrated	Begins on Page
Federal Government		
1. Leadership for Employment of Americans with Disabilities	<ul style="list-style-type: none"> • Developing leadership/top management commitment • Training and educating managers/staff 	26
2. Schedule A Hiring Authority	<ul style="list-style-type: none"> • Providing opportunities for job experience 	26
3. Workforce Recruitment Program	<ul style="list-style-type: none"> • Targeting recruitment efforts 	27
4. Executive Order 13164 and Management Directive 715	<ul style="list-style-type: none"> • Improving access to reasonable accommodations 	27
5. Computer/Electronic Accommodations Program	<ul style="list-style-type: none"> • Improving access to reasonable accommodations 	28
6. Section 508 of the Rehabilitation Act (website accessibility)	<ul style="list-style-type: none"> • Improving accessibility in the recruitment and hiring process 	29
7. AbilityOne Program	<ul style="list-style-type: none"> • Providing opportunities for job experience 	29
State of Maryland		
1. Special Options Eligible List	<ul style="list-style-type: none"> • Improving accessibility in the recruitment and hiring process 	31
2. QUEST Internship Program	<ul style="list-style-type: none"> • Providing opportunities for job experience 	31
3. Disability Employment Workgroup	<ul style="list-style-type: none"> • Developing leadership/top management commitment • Training and educating managers/staff 	32
4. Maryland Information Technology Nonvisual Access Regulatory Standards	<ul style="list-style-type: none"> • Improving accessibility in the recruitment and hiring process 	32

**Table 5-1 (Cont.)
Summary of Public Programs and Strategies that
Address Barriers to Employment for Persons with Disabilities**

Program	Strategies Demonstrated	Begins on Page
State of Washington		
1. Supported Employment	<ul style="list-style-type: none"> • Providing opportunities for job experience 	33
2. Disability Accommodation Revolving Fund	<ul style="list-style-type: none"> • Improving access to reasonable accommodations 	33
3. Assistive Technology Loan Program	<ul style="list-style-type: none"> • Improving access to reasonable accommodations 	33
Miami-Dade County, Florida		
1. Outreach Intern Program	<ul style="list-style-type: none"> • Providing opportunities for job experience 	34
2. Reasonable Accommodation Fund	<ul style="list-style-type: none"> • Improving access to reasonable accommodations 	34
3. Reasonable Accommodation Manual	<ul style="list-style-type: none"> • Improving access to reasonable accommodations 	35
4. Supervisory Certification Program	<ul style="list-style-type: none"> • Training and educating managers/staff 	35
5. Essential Functions Form	<ul style="list-style-type: none"> • Improving accessibility in the recruitment and hiring process 	35
City of Chicago, Illinois		
1. Training Program	<ul style="list-style-type: none"> • Training and educating managers/staff 	37
2. Reasonable Accommodation and Employment Practices Policy	<ul style="list-style-type: none"> • Improving access to reasonable accommodations 	37
3. Reasonable Accommodation Procedures for Employees and Applicants with Disabilities	<ul style="list-style-type: none"> • Improving access to reasonable accommodations 	38
4. Reasonable Accommodation Fund	<ul style="list-style-type: none"> • Improving access to reasonable accommodations 	38
5. Website Accessibility Standards	<ul style="list-style-type: none"> • Improving accessibility in the recruitment and hiring process 	38
King County, Washington		
1. Tracking Number of Employees with Disabilities	<ul style="list-style-type: none"> • Developing leadership/top management commitment 	39
Other Publicly-Supported Programs		
1. Vocational Rehabilitation Agencies	<ul style="list-style-type: none"> • Targeting recruitment efforts 	39
2. Job Accommodation Network	<ul style="list-style-type: none"> • Targeting recruitment efforts 	40
3. Employer Assistance and Recruitment Network	<ul style="list-style-type: none"> • Targeting recruitment efforts 	40

A. FEDERAL GOVERNMENT

The Rehabilitation Act of 1973 prohibits the federal government from discriminating in employment based on disability. It also requires the federal government to establish “an affirmative action program plan for the hiring, placement, and advancement of individuals with disabilities.”⁷⁰ The policies and programs discussed below describe a number of the federal government’s strategies designed to encourage employment for persons with disabilities.

1. LEAD Initiative

The EEOC launched the Leadership for Employment of Americans with Disabilities (LEAD) initiative in 2006 to address decreasing trends in federal employment of people with targeted disabilities. Targeted disabilities are those that the federal government, as a matter of policy, has identified for special emphasis. The targeted disabilities are deafness, blindness, missing extremities, partial paralysis, complete paralysis, convulsive disorders, mental retardation, mental illness, and distortion of limb and/or spine.⁷¹

LEAD provides outreach to managers about their responsibility to recruit and hire persons with disabilities. LEAD’s activities include training and conferences on federal programs to recruit, hire, and provide accommodations for persons with disabilities. The initiative also informs job applicants with disabilities about special hiring programs.⁷²

2. Schedule A Hiring Authority

The federal Schedule A Hiring Authority enables federal agencies to directly hire an applicant with a disability into a vacant position on a non-competitive basis. To be hired “under Schedule A” an applicant must meet the minimum job qualifications, demonstrate job readiness, and provide documentation of “mental retardation, severe physical disabilities, or psychiatric disabilities.”⁷³

A hiring manager may hire a Schedule A applicant without considering other applicants. Schedule A applicants are instructed to send resumes and statements of disability directly to agencies, rather than applying through the Office of Personnel Management’s (OPM) USA Jobs program. After two years of service, managers may non-competitively convert a person hired in a Schedule A position to competitive service status.⁷⁴

⁷⁰ See *Management Directive 715*, Equal Employment Opportunity Commission (2003).

⁷¹ *Annual Report on the Federal Workforce: Fiscal Year 2006*, U.S. Equal Employment Opportunity Commission at Appendix I-6 (2006) [hereinafter *2006 Annual Report on the Federal Workforce*].

⁷² *The LEAD Initiative*, U.S. Equal Employment Opportunity Commission. Available at <http://www.eeoc.gov/initiatives/lead/index.html>.

⁷³ 5 C.F.R. § 312.3102(u).

⁷⁴ *The ABCs of Schedule A for the Disability Program Manager and/or Selective Placement Coordinator: How to Hire Using the Schedule A Appointing Authority*, Equal Employment Opportunity Commission (2007).

Most federal agencies have a Special Placement Coordinator or Disability Program Manager that promotes hiring of persons with disabilities and recruits Schedule A applicants. A recent EEOC report found that, in 2006, the federal government hired 326 employees with targeted disabilities using the Schedule A program. This represents 25% of all persons with targeted disabilities hired in 2006 and 0.14% of all federal workers hired in 2006.⁷⁵

3. Workforce Recruitment Program

The U.S. Department of Labor's Office of Disability Employment Policy (ODEP) and the U.S. Department of Defense administer the Workforce Recruitment Program (WRP). This program recruits postsecondary students or recent college graduates with disabilities for internships or permanent positions with the federal government.

Students qualify for the program if their school considers them to have a disability. Departments hire students for internships or permanent positions through both non-competitive and competitive processes.⁷⁶ Depending on how a student is hired, he or she may be required to submit documentation of a disability and readiness to work.

Department of Labor staff report that, as of March 2007, a database of interested WRP applicants contained 1,816 students. In August 2007, federal agencies reported 357 temporary and three permanent hires as a result of this initiative.

4. Executive Order 13164 and Management Directive 715

Executive Order 13164 requires all federal agencies to establish written procedures for providing reasonable accommodations. Exhibit 5-1 (on the next page) lists the guidelines for developing written procedures, as outlined in EEOC's Management Directive 715, which implements Executive Order 13164.

⁷⁵ *Improving the Participation Rate of People with Targeted Disabilities in the Federal Work Force*, U.S. Equal Employment Opportunity Commission at 18 (2008).

⁷⁶ *Workforce Recruitment Program*, U.S. Department of Labor. Available at <http://www.dol.gov/odep/programs/workforc.htm>.

Exhibit 5-1
Written Procedures for Providing Reasonable Accommodations
Source: EEOC Management Directive 715

Management Directive 715 advises that written procedures should, at a minimum, include:

- The personnel whom employees, selectees or applicants should initially contact to request a reasonable accommodation;
- The personnel forms, if any, that an individual may be asked to complete in connection with a request for an accommodation;
- The circumstances in which supervisors or others should initiate inquiries about the need for accommodation;
- The personnel and/or offices that must approve an accommodation request;
- The amount of time decision makers have to answer requests for accommodation;
- An explanation of when decision makers may request documentation of the existence of a disability or the need for an accommodation;
- The resources, including technical assistance, available to decision makers to gain information about possible accommodations for particular disabilities;
- The ways in which accommodations can be funded or effected;
- The documentation, if any, that must be maintained concerning the consideration and disposition of requests for accommodation; and
- The process, if any, that individuals may follow to appeal denials of requests for accommodation or for specific accommodations.⁷⁷

5. Computer/Electronic Accommodations Program

The Department of Defense (DOD) started the Computer/Electronic Accommodations Program (CAP) in 1990 as a centrally-funded source of assistive technology for employees with disabilities. In 2000, the program was expanded so that other federal agencies may enter into a partnership agreement with DOD. Under the agreement, DOD provides CAP services at no cost to the participating agency. Services performed by CAP staff include:

- Assessing an employee's need for assistive technology;
- Providing assistive devices, and
- Training employees how to use assistive technology and devices.

CAP staff also provide guidance to federal agencies on compliance with Section 508 of the Rehabilitation Act, which requires federal government agencies to make their websites accessible to persons with disabilities.⁷⁸

⁷⁷ *EEOC Management Directive 715, Part B, § V.*

6. Section 508 of the Rehabilitation Act (website accessibility)

Section 508 of the Rehabilitation Act requires all federal websites to be accessible to persons with disabilities.⁷⁹ Specifically, the Act:

[R]equires that individuals with disabilities, who are members of the public seeking information or services from a Federal agency, have access to and use of information and data that is comparable to that provided to the public who are not individuals with disabilities, unless an undue burden would be imposed on the agency.⁸⁰

Section 508 Standards describe specific website requirements that allow persons with disabilities who use assistive technology to access content. For example, the standards state that:

- “When electronic forms are designed to be completed on-line, the form shall allow people using assistive technology to access the information, field elements, and functionality required for completion and submission of the form, including all directions and cues,” and
- “When a timed response is required, the user shall be alerted and given sufficient time to indicate more time is required.”⁸¹

Appendix A provides the complete list of Section 508 standards for web-based information.

7. AbilityOne Program (formerly the Javits-Wagner-O’Day Program)

The AbilityOne program lets the federal government purchase goods and services from nonprofit organizations that employ persons who are blind or severely disabled. The federal agency that oversees the program is The Committee for Purchase from People who are Blind or Severely Disabled. Some of the Committee’s responsibilities include:

- Designating products and services the federal government will procure through the AbilityOne program;
- Setting prices for AbilityOne products and services; and
- Helping federal agencies use the AbilityOne program.

The Committee has designated two nonprofit agencies – the National Industries for the Blind (NIB) and NISH – to help other nonprofit agencies secure contracts through the AbilityOne Program.

⁷⁸ *Computer/Electronic Accommodations Program*, U.S. Department of Defense. Available at http://www.tricare.mil/cap/About_us/.

⁷⁹ 36 C.F.R. § 1194.22

⁸⁰ 36 C.F.R. § 1194.1.

⁸¹ 36 C.F.R. § 1194.22(n), (p).

Services that the federal government currently purchases through the AbilityOne Program include:

- Administrative services;
- Data entry and database management;
- Food service;
- Grounds maintenance and custodial services;
- Call center operation; and
- Warehouse, storage, and distribution services.⁸²

EEOC Report. Despite the federal government's programs and initiatives, a 2006 report from the EEOC indicates that the number of persons with targeted disabilities in the federal workforce is declining.⁸³ According to the EEOC report, employment of persons with targeted disabilities decreased from 1.6% to 0.94% of the federal workforce between 1997 and 2006.⁸⁴ At the same time, the total number of persons with targeted disabilities working for the federal government decreased 15% while the overall federal workforce increased 5.5%.⁸⁵

In a 2008 report, the EEOC noted several factors that may be driving this downward hiring trend. These include:

- Multiple federal agencies and programs that share responsibility for increasing federal employment of persons with disabilities, but lack good coordination;
- A difficult job application process;
- A lack of knowledge about reasonable accommodations; and
- Stereotypes about persons with disabilities.⁸⁶

B. STATE OF MARYLAND

Maryland's Department of Disabilities publishes an annual State Disabilities Plan. This plan describes services to persons with disabilities, program goals, and measurable objectives. The 2007 plan includes the three programs described below. Two of the programs were highlighted in an EEOC report entitled *Best Practices for the Employment of People with Disabilities in State Government*.⁸⁷

⁸² See <http://www.abilityone.gov>.

⁸³ *Annual Report on the Federal Workforce: Fiscal Year 2006*, U.S. Equal Employment Opportunity Commission at Appendix I-6 (2006) [hereinafter *2006 Annual Report on the Federal Workforce*].

⁸⁴ *Ibid.* at Appendix I-12.

⁸⁵ *Ibid.* at Table A-6.

⁸⁶ *Improving the Participation Rate of People with Targeted Disabilities in the Federal Work Force*, Equal Employment Opportunity Commission at vi (2008).

⁸⁷ *Final Report: Best Practices for the Employment of People with Disabilities in State Government*, Equal Employment Opportunity Commission at 28, 30 (2005).

The State of Maryland does not track the number of persons with disabilities employed in State government.⁸⁸ However, individual departments report the number of reasonable accommodations provided to applicants and to employees for the *Annual Statewide Equal Employment Opportunity Report*. From 2003-2006, the State received requests for reasonable accommodations from 65 applicants and from 876 employees. The State granted 861, or 98%, of the total number requested.⁸⁹

1. Special Options Eligible List

The Special Options Eligible List (SOEL) provides an alternative process for applicants with disabilities to be added to the list of candidates eligible for a State job. An applicant must meet one of two requirements to qualify under this program:

- The State must determine that a reasonable accommodation will not provide a fair and equal opportunity for the applicant to perform well on State tests; or
- The applicant must have successfully completed a QUEST internship (see below).

Applicants who meet a requirement and are certified by the Division of Rehabilitation Services (DORS) as ready to work are placed on an eligible list as DORS certified-SOEL. They can then be considered for employment along with those certified as best qualified or eligible for reinstatement or transfer.⁹⁰ Hiring managers may select a SOEL candidate without considering other applicants. The State does not track the number of persons hired under this program.

2. QUEST Internship Program

In 2001, the State of Maryland started the QUEST (Quality, Understanding, Excellence, Success and Training) internship program for persons with disabilities. The Department of Budget and Management and Division of Rehabilitation Services work with other State agencies to provide training to intern managers on reasonable accommodations, interviewing, and selection. Participating state agencies design internships based on their hiring needs.

The program selects interns from DORS consumers who have completed rehabilitation training. Participants compete for full-time or part-time 12-week internships and receive a stipend of up to \$3,000.

⁸⁸ Maryland Department of Management and Budget Staff, September 2007.

⁸⁹ *Annual Statewide Equal Employment Opportunity Reports, FY03, FY04, FY05, and FY06*, Maryland Department of Management and Budget.

⁹⁰ The State can place job candidates into several categories, including best qualified, certified by DORS, eligible for reinstatement, and eligible for transfer. Md. Code, State Personnel and Pensions § 7-208.

Data from the six years of the program demonstrate increased participation and positive employment trends. Specifically,

- From 2001 to 2006, the program saw participation increase from eight to 34 interns per year. As of September 2007, a total of 171 interns had participated in the program.
- After the internship, 77% of interns in 2005 and 94% in 2006 obtained competitive employment with a public or private sector employer that lasted at least 90 days.⁹¹

3. Disability Employment Workgroup

In 1999, the Department of Budget and Management and the Department of Disabilities established a Disability Employment Workgroup to increase hiring of persons with disabilities in State government. Representatives from the Department of Budget and Management and the Department of Disabilities chair the group, which includes representatives from other departments.

The Disability Employment Workgroup offers training to State agencies on ADA requirements through the Division of Rehabilitation Services (DORS). In 2001, the Workgroup held a conference for representatives from other State agencies on hiring, medical exams, reasonable accommodations, performance management, and other topics surrounding employment of persons with disabilities. The Disability Employment Workgroup initiated and administers the QUEST internship program (described above).⁹²

4. Maryland Information Technology Nonvisual Access Regulatory Standards

The State of Maryland provides information about vacant positions and the job application process on the State's Office of Budget and Management website. Maryland's Information Technology Nonvisual Access Regulatory Standards set minimum accessibility standards for information technology in state agencies and require that websites be accessible to persons with disabilities.

For web-based information, the State adopted the federal standard on web-based intranet and internet information and applications outlined in federal regulations.⁹³ (See Appendix A) The Office of Budget and Management has also developed a checklist for departments to use to evaluate their website's accessibility. (See Appendix R online)

⁹¹ Maryland Department of Management and Budget Staff, September 2007.

⁹² *The Governor's 2007 QUEST Internship Program for Persons with Disabilities*, Maryland Department of Management and Budget (2007).

⁹³ Code of Maryland Regulations (COMAR) §§ 17.06.02.01 – 17.06.02.12.

C. STATE OF WASHINGTON PROGRAMS AND PRACTICES

The State of Washington has implemented a number of policies and programs to encourage departments to hire persons with disabilities, described below.

1. Supported Employment

In 1997, the Washington State legislature approved legislation to encourage State agencies to participate in supported employment programs. As an incentive, employees hired through supported employment do not count toward the department's full-time equivalent allocation. However, departments must be able to hire the person with existing funding allocations.⁹⁴

2. Disability Accommodation Revolving Fund

In 1987, the Washington State legislature established the Disability Accommodation Revolving Fund, which lets departments use money from the fund to pay for "unbudgeted" accommodations such as workstation modifications or assistive technology. Departments must budget for and repay the fund for disbursements in the fiscal cycle following their use of the fund.⁹⁵

Program staff report that the fund has been used infrequently and has typically paid for very expensive accommodations (e.g. a \$10,000 workstation modification for a blind employee). According to staff, when departments learn that they must repay the fund, they often use money in their current budget to pay for accommodations.

3. Assistive Technology Loan Program

In the early 1990s, the State of Washington established an assistive technology loan program to provide equipment to state agencies on a short-term basis. Agencies can borrow equipment for events, such as meetings or interviews, or to allow an employee to try out equipment before a department purchases it. The program currently has multiple types of assistive listening devices and air purifiers.

⁹⁴ Rev. Code of Wash., Public Employment, Service, and Pensions §§ 41.04.760 – 41.04.780.

⁹⁵ Ibid. § 41.04.395.

D. MIAMI-DADE COUNTY, FLORIDA PROGRAMS AND PRACTICES

Miami-Dade County, Florida has implemented several policies and programs to encourage departments to hire persons with disabilities, meet ADA requirements, and clarify procedures for reasonable accommodations. They are described below.

1. Outreach Intern Program

In FY07, Miami-Dade County started the Outreach Intern Program for persons with disabilities. The program offers four one-year, full-time intern positions with salary and benefits. Two positions are administrative and require the applicant to have a bachelor's degree; the other two positions are clerical and require a high school diploma and some training or experience in clerical work. Although the program requires applicants to have a disability, the County does not require documentation of a disability unless necessary to determine a reasonable accommodation.

Interns work for two months in the Department of Personnel, where they receive orientation on County policies, procedures, and work expectations. Interns then work two five-month rotations in host departments. Host departments provide a supervisor and work space, but the Outreach Intern Program pays the interns' salary and benefits. Interns also receive career counseling.

The program provides an opportunity for persons with disabilities to gain experience, network with possible employers, and gain job skills. The County does not guarantee permanent employment after the internship, but does encourage departments to consider interns for permanent positions.

Four interns have completed the program so far. At least two obtained permanent County positions, one as a supervisor. Four new interns are currently participating in the program. Appendix B contains more information about the program, including job descriptions.

2. Reasonable Accommodation Fund

Miami-Dade County uses its capital outlay reserve for pay-as-you-go capital projects, including reasonable accommodations.⁹⁶ The fund's annual budget of between \$75 million and \$100 million includes revenue from handicapped parking fines (about \$100,000 annually). The County has used the fund to pay for accommodations such as ergonomic chairs, special software, and special workstation lighting.

Departments can use the fund to pay for the total cost of a reasonable accommodation. Staff report that annual requests for funding for reasonable accommodations vary from year to year. In 2006, the County spent less than \$2,000 from the fund on reasonable accommodations. Staff also report that many departments pay for accommodations without using money from the fund.

⁹⁶ Only non-self-supporting agencies can use the capital outlay reserve. Self-supporting (proprietary) agencies, such as Miami-Dade Transit, must fund their own reasonable accommodation costs.

3. Reasonable Accommodation Manual

Miami-Dade County developed an *Americans with Disabilities Act Reasonable Accommodations Countywide Procedures Manual*. This manual covers topics such as:

- Guidelines for indentifying essential functions;
- Applicant and employee procedures for requesting, processing, and granting or denying reasonable accommodation requests;
- Funding reasonable accommodations;
- Interviews, training, discipline, evaluation, and discrimination complaint procedures;
- Resources for information on assistive technology;
- Terms and definitions;
- Flowcharts describing the reasonable accommodation process; and
- Sample forms.⁹⁷

Miami-Dade County's homepage has a link to information for "People with Disabilities" that takes users to links on several topics, including accessibility, health and social services, and jobs and employment. The jobs and employment link takes users to reasonable accommodation information, including the manual, a summary of reasonable accommodation procedures for employees and applicants, and reasonable accommodation request forms.

4. Supervisory Certification Program

Miami-Dade County requires supervisors to complete a Supervisory Certification Program, which includes a Fair Employment Practices course. This course includes a 90 minute module on Title I of the ADA, which prohibits employment discrimination.

Managers also receive copies of the County's reasonable accommodation manual. (See above description and Appendix S online)

5. Essential Functions Form

Since 1992, Miami-Dade County has required hiring managers to submit an essential job functions form when posting an open position. Hiring managers must describe essential job functions based on the actual requirements of a department, work environment, and working conditions, rather than on generalized classification specifications. The County developed eight criteria to assist managers with identifying essential functions, described below in Exhibit 5-2. The Essential Job Functions Form and the full criteria are included in Appendix C.

⁹⁷ *Americans with Disabilities Act Reasonable Accommodations Countywide Procedures Manual*, Miami-Dade County, Florida (2005).

Exhibit 5-2 Criteria for Identifying Essential Functions of a Position, Miami-Dade County
<ul style="list-style-type: none">• Do employees in the position actually perform the function?• Would removing a function fundamentally change the job?• What is the result of a job function? (Do not focus on how it is typically accomplished.)• Does the position exist to perform a particular function?• Are there a limited number of employees who can perform the function?• Is the function highly specialized and is the employee hired based on their expertise in performing the function?• What are the consequences if the function is not performed?• What other factors does the manager believe are important? (e.g., amount of time spent on the function, organizational structure)

Source: Miami-Dade County Essential Functions Form

E. CITY OF CHICAGO, ILLINOIS PROGRAMS AND PRACTICES

In 2003, the Mayor of Chicago established a City-Wide Task Force on Employment of People with Disabilities. This ad hoc group included representatives from City departments, the business community, and the community of persons with disabilities.

The Task Force’s goal was to “formulate and recommend to the Mayor policies and programs designed to improve and increase employment opportunities for people with disabilities in both the public and private sectors.”⁹⁸ The Task Force had several focuses, including City employment practices related to persons with disabilities.

Based on the Task Force’s work, the City took the following actions related to City employment practices:

- Revised the City’s Reasonable Accommodations and Employment Practices Policy;
- Developed and implemented mandatory training for managers on the ADA and disability awareness;
- Established a central reasonable accommodation fund; and
- Adopted the Illinois Web Accessibility Standards for the City website, including upgrading the online application process.⁹⁹

⁹⁸ City of Chicago Executive Order 2002-3, City-Wide Task Force on Employment of People with Disabilities at 1 (2002).

⁹⁹ *Final Report of the Mayoral Task Force on Employment of People with Disabilities*. Chicago Mayor’s Office of Workforce Development at 33-35 (2005) [hereinafter *Final Report of the Mayoral Task Force*].

The Task Force also recommended that the City of Chicago:

- Develop a policy on and implement a procedure to allow applicants to voluntarily disclose their disability status for purposes of affirmative action;
- Enhance outreach to people with disabilities to inform them of City job openings;
- Examine City job descriptions for clear descriptions of essential functions; and
- Conduct an evaluation through the Department of Personnel on ADA compliance.¹⁰⁰

The programs and practices below describe implementation of Task force recommendations.

1. Training Program

Based on the Task Force’s recommendation, Chicago developed a three-hour mandatory training for managers on employing persons with disabilities, with required quarterly refresher courses. The training covers:

- Applicable federal, state, and local laws;
- Key terms and definitions;
- General situations that would or would not require an accommodation;
- Reasonable accommodation procedures for applicants and employees;
- Ways to approach employees about accommodation when they have difficulty with a task; and
- Accessing the City’s reasonable accommodation fund.¹⁰¹

The City also plans to develop a training for all employees.

2. Reasonable Accommodation and Employment Practices Policy

Under mandate from the Mayor, the Task Force updated Chicago’s reasonable accommodation policy. The new policy defines important terms related to reasonable accommodation, describes the reasonable accommodation procedures for employees and applicants, and outlines an appeal process. (See Appendix D)

The policy also requires all City departments and agencies to designate a “Disability Liaison.” Disability Liaisons receive training from the Mayor’s Office on Persons with Disabilities, the Department of Law, and the Department of Personnel. They are responsible for:

¹⁰⁰ *Final Report of the Mayoral Task Force* at 18, 35.

¹⁰¹ Chicago Mayor’s Office of Person’s with Disabilities Staff, March 2008.

- “[Assisting] City personnel in their department or agency in responding to requests for reasonable accommodation.
- [Maintaining] contact with the Mayor’s Office for People with Disabilities, the Department of Personnel, and the Department of Law concerning responses to requests for reasonable accommodation.
- [Advising] managerial or supervisory personnel concerning the status of requests for reasonable accommodation.
- [Documenting] the process of granting or denying each request for reasonable accommodation within their area of authority.”¹⁰²

3. Reasonable Accommodation Procedures for Employees and Applicants with Disabilities

Based on Task Force recommendations, Chicago also developed a reasonable accommodation manual that describes applicant and employee procedures for requesting, processing, granting/denying, and appealing a decision on a reasonable accommodation. It also includes:

- Terms and Definitions;
- Flowcharts of the reasonable accommodation process;
- Guidelines to determine whether the employer is obligated to provide a reasonable accommodation;
- Guidance on disability etiquette;
- Agency reporting on reasonable accommodations; and
- Sample forms.¹⁰³

A copy of the the manual is available as Appendix T online.

4. Reasonable Accommodation Fund

Chicago uses centralized funding to pay for all reasonable accommodations that have a cost. Staff report that in FY07, Chicago spent an average of \$240.25 per reasonable accommodation. The City of Chicago provides non-equipment reasonable accommodations, such as sign language interpreters and personal care assistance, on a weekly basis. The City provides equipment-related reasonable accommodations, such as computer-related purchases, two or three times per quarter.

5. Website Accessibility Standards

Based on Task Force recommendations, the City of Chicago adopted the Illinois Information Technology Act Implementation Guidelines for Web-Based Information and Applications 1.0 (formerly the Illinois Web Accessibility Standards) for all new and

¹⁰² *Final Report of the Mayoral Task Force* at 61.

¹⁰³ *Reasonable Accommodation Procedures for Employees and Applicants with Disabilities*, City of Chicago.

updated websites. The City redesigned its online job application website to meet the new standards and opened an accessible application station in the City Hall Application Center. The Illinois Guidelines incorporate both federal Section 508 standards and Web Content Accessibility Guidelines from the World Wide Web Consortium (W3C). The Illinois standards seek to make the website easy to navigate, understand, and interact with for all users, including persons with disabilities and people who use assistive technology. (See Appendix U online.)

F. KING COUNTY, WASHINGTON PROGRAMS AND PRACTICES

1. Tracking Number of Employees with Disabilities

King County, Washington tracks the number of employees with disabilities in the County government. The County Code requires all departments to report the number of employees by job group who voluntarily identify as a person with a disability. Each department must also specify a plan to increase hiring, retention, and promotion of persons with disabilities.¹⁰⁴

The County's Equal Employment Opportunity/Affirmative Action Plan reports the total number persons with disabilities in the County workforce, the number by job category, and the number hired and promoted. To gather these data, King County lets applicants and incumbents voluntarily self-identify themselves as a person with a disability. Appendix E contains a copy of the form used by King County.

G. OTHER PUBLICLY-SUPPORTED PROGRAMS

This section describes other publicly-supported initiatives that provide assistance to employers and persons with disabilities who are looking for work. Employers can use these resources to recruit persons with disabilities or learn about reasonable accommodations.

1. Vocational Rehabilitation Agencies (VRAs)

State Vocational Rehabilitation Agencies (VRAs) provide job training; help individuals identify and learn to use appropriate assistive technology; assist with finding employment; and provide guidance for starting small businesses. VRAs also provide certification of disability and job readiness to job seekers.¹⁰⁵ Employers can use VRAs as recruitment pools for workers with disabilities. Some special hiring programs, such as Maryland's QUEST internship program, require VRA certification for eligibility.

¹⁰⁴ King County Code § 3.12.180.

¹⁰⁵ Maryland State Department of Education, Division of Rehabilitation Services.
<http://www.dors.state.md.us/DORS/AboutDORS/>.

Maryland's VRA is the Department of Rehabilitation Services (DORS) in the Maryland State Department of Education. The DORS 2007 *Annual Report* reports the following:

- 3,097 persons with disabilities began work after completing DORS rehabilitation programs at an average wage of \$10.10 per hour;
- 966 individuals were receiving services to prepare them for permanent employment; and
- DORS worked with 77 businesses to help them retain or hire employees with disabilities.¹⁰⁶

2. Job Accommodation Network

The Job Accommodation Network (JAN) is a service provided by U.S. Department of Labor, Office of Disability Employment Policy (ODEP). JAN provides free consulting and information on the ADA and reasonable accommodations to public and private sector employers and persons with disabilities. JAN's website provides:

- Detailed information about ADA requirements;
- Information about specific disabilities and suggested reasonable accommodations;
- Information about funding sources for making reasonable accommodations;
- A list of organizations and government agencies with ADA-related information;
- Fact sheets about accommodation costs, sample accommodation request forms, disability etiquette; disability-related questions during the hiring process; and website accessibility.

JAN also provides individualized telephone consulting services for employers and job seekers.

3. Employer Assistance and Recruitment Network

The Employer Assistance and Recruitment Network (EARN) provides services to employers, disability service providers, and jobseekers with disabilities. The program receives funding from ODEP. The program provides direct services as well as online services at EARNworks.com.

For employers, EARN offers free consulting, a forum for posting job openings, and pre-screening services to ensure that applicants meet minimum qualifications for a job. EARN assists disability service providers by providing employment resources for their consumers, including e-mail notification about new job opportunities. For jobseekers, EARN provides a database of available jobs and resume-building assistance. Several other organizations and websites targeted to persons with disabilities provide online searchable databases of vacant jobs and other job search resources. Table 5-2

¹⁰⁶ 2007 *Annual Report*. Maryland State Department of Education, Division of Rehabilitation Services (2007).

(next page) lists some of these websites and the number of jobs in or around Montgomery County posted on the sites on April 1, 2008.

Table 5-2
Job Search Resources for Persons with Disabilities

Organization and Website	Total Number of Jobs Returned in Search	# of Montgomery County Government Jobs Returned in Search	Location of Jobs
Hire Disability Solutions www.hireds.com	634	—	Montgomery County
Ability Jobs www.jobaccess.org	153	1	Montgomery County
AbilityLinks.org www.abilitylinks.org	73	—	Within 10 miles of zip code 20850
EARNworks www.earnworks.com	69	18	Montgomery County

Source: OLO research

CHAPTER VI. Laws and Regulations Governing County Government Recruitment and Hiring Practices

This chapter describes the laws and regulations governing the County Government’s recruitment and hiring of persons with disabilities within the County Government’s merit system. The Montgomery County Charter establishes the merit system – which is governed by County laws and regulations – for recruitment, selection, and development of County Government employees to “maintain an effective, non-partisan, and responsive work force with personnel actions based on demonstrated merit and fitness.”¹⁰⁷

This chapter highlights the provisions in the Americans with Disabilities Act (ADA) and the Montgomery County Personnel Regulations (“Personnel Regulations”) that prohibit discrimination in and establish standards for the County Government’s hiring practices. The general legal requirements established by the ADA were reviewed earlier in this report (see Chapter III, page 11).

This chapter is organized into the following sections:

- Section A, Equal Employment Opportunity Policy
- Section B, Recruitment and Evaluation of Applicants for County Positions
- Section C, Collecting Data on Job Applicants with Disabilities
- Section D, Interviewing Applicants
- Section E, Job Offers and Medical Inquiries/Examinations
- Section F, Providing Reasonable Accommodations.

In addition, Section G summarizes the County Government’s legal obligation to make the County’s website accessible to persons with disabilities. Chapter VII (page 54) reviews the County Government’s practices in each of these areas.

A. EQUAL EMPLOYMENT OPPORTUNITY POLICY

Montgomery County’s Equal Employment Opportunity Policy is a general statement of how the County Government must conduct its employment activities, the foundation of which is the County Government’s merit system. The Equal Employment Opportunity (EEO) policy in Montgomery County’s personnel law requires the County Government to:

[T]ake all personnel actions on the basis of merit and fitness without regard to political affiliation or non-merit factors, and without regard to other factors as may be provided for in chapter 27, “Human Relations and Civil Liberties,” such as sex, marital status, race, religion, national origin, age or **handicap**.¹⁰⁸

¹⁰⁷ Charter of Montgomery County, Maryland § 401 (Nov. 7, 2006).

¹⁰⁸ MCC § 33-9(a) (emphasis added).

The EEO policy, as stated in the County's Personnel Regulations, protects individuals from discrimination on a greater number of bases than the EEO policy in the personnel law:

Montgomery County must . . . conduct all employment activities in a manner that ensures equal employment opportunity for all persons without regard to race, color, religion, national origin, ancestry, sex, marital status, age, **disability**, sexual orientation, or genetic status¹⁰⁹

This Regulation applies to anyone seeking employment with the County and to all County employment practices, including recruitment and hiring.¹¹⁰

Under the Personnel Regulations, "employment discrimination" includes any "policy, practice, or procedure that limits or adversely affects employment . . . or other working conditions on the basis of race, color, religion, national origin, ancestry, sex, marital status, age, **disability**, sexual orientation, or genetic status."¹¹¹

The Personnel Regulations require County managers to ensure that the work environment is free from all discrimination and harassment. In addition, the Personnel Regulations forbid employees from discriminating against, harassing, or retaliating against job applicants or employees.¹¹² County employees who discriminate, harass, or retaliate against others may be disciplined and/or fired.¹¹³

Individuals who believe they have been discriminated against or harassed can file complaints with:

- The individual's supervisor or director, if the person is a County employee;
- The County Government's EEO Officer;
- The Montgomery County Commission on Human Rights;
- The Maryland Commission on Human Relations; and/or
- The Equal Employment Opportunity Commission.¹¹⁴

The Personnel Regulations require the CAO to develop, as necessary, an Equal Employment Opportunity and Diversity Action Plan "to achieve and maintain equal employment opportunity and to promote diversity."¹¹⁵

¹⁰⁹ Personnel Regulations § 5-2(b)(2) (emphasis added).

¹¹⁰ Personnel Regulations § 5-3(a).

¹¹¹ Personnel Regulations § 5-1(c) (emphasis added).

¹¹² Personnel Regulations §§ 5-2(c), (e); 5-3(a).

¹¹³ Personnel Regulations § 5-2(f).

¹¹⁴ Personnel Regulations § 5-4(a).

¹¹⁵ Personnel Regulations § 5-5.

B. RECRUITMENT AND EVALUATION OF APPLICANTS FOR COUNTY POSITIONS

1. Federal Law: The Americans with Disabilities Act

Advertising Positions. Under the ADA, employers are not required to do special outreach to persons with disabilities, but “it is consistent with the purpose of the ADA for employers to expand their ‘outreach’ to sources of qualified candidates with disabilities.”¹¹⁶

The Equal Employment Opportunity Commission’s *ADA Technical Assistance Manual* recommends that advertisements for vacant positions provide information on the essential functions of a job.¹¹⁷ The manual also indicates that employers “should” make information about vacant positions available in accessible format upon request.¹¹⁸

Screening Job Applicants. Unless asked in the context of collecting data for an employer’s affirmative action program, the ADA prohibits employers from asking about a disability or the nature or severity of a disability before making an applicant a job offer.¹¹⁹ See page 45 for a more detailed discussion of this issue.

2. Montgomery County Personnel Regulations

Advertising Positions. According to the County’s Personnel Regulations, the OHR Director must announce vacant positions. The OHR Director has the discretion to advertise positions to the general public or restrict position openings to County employees.¹²⁰

Screening Job Applicants. The Personnel Regulations require the Director to establish a competitive rating process and rating criteria for a position and include this information in any vacancy announcements.¹²¹ The County’s rating process must:

- Result from a job analysis that documents the knowledge, skills, and abilities required to perform essential functions of the job;
- Assess the employee’s ability to perform important aspects of the job;
- Be administered in good faith and without discrimination; and
- Be properly and accurately conducted.¹²²

¹¹⁶ *ADA Technical Assistance Manual* § 5.3. (See Appendix P online for a copy of this manual)

¹¹⁷ *Ibid.* § 5.2.

¹¹⁸ *Ibid.*

¹¹⁹ *ADA Enforcement Guidance: Preemployment Disability-Related questions and Medical Examinations*, Equal Employment Opportunity Commission at 11 (October 1995) [hereinafter “*ADA Enforcement Guidance*”]. (See Appendix Q online for a copy of this manual)

¹²⁰ Personnel Regulations § 6-2(a).

¹²¹ Personnel Regulations §§ 6-5(a), (b); 6-8. The Personnel Regulations allow the OHR Director to create an eligible list on a noncompetitive basis for unskilled manual labor positions and “for other classes of work if a competitive process is impractical.” Personnel Regulations § 6-6.

¹²² Personnel Regulations § 6-5(b)(2).

The Personnel Regulations require County staff to review and evaluate every job application received to determine whether an applicant is “eligible” for an open position.¹²³ Based on the rating process for a position, OHR creates an “eligible list” that separates qualified individuals into set rating categories.¹²⁴

If a vacant position was open to the general public, a department director must select an individual to fill the position from the eligible list.¹²⁵ In doing so, the department director:

- May select any applicant from the highest rating category, if the selection is “[c]onsistent with equal employment opportunity policies;”
- Must be able to justify the selection and must comply with priority consideration provisions in the Personnel Regulations; and
- Must justify the selection of an individual from a lower rating category in writing and must receive approval from the CAO if bypassing an individual in a higher rating category.¹²⁶

An applicant for a merit system position who believes a decision on the applicant’s application was illegal or based on non-merit factors may file an appeal with the Merit System Protection Board.¹²⁷

C. COLLECTING DATA ON JOB APPLICANTS WITH DISABILITIES

1. Federal Law: The Americans with Disabilities Act

Federal law and regulations require employers to report data to the EEOC on employees’ race and gender. Federal law does not contain any comparable reporting requirement on the employment of persons with disabilities.

Except in limited circumstances (listed below), the ADA prohibits employers from asking job applicants questions about disabilities prior to making offers of employment.¹²⁸

Employers can ask job applicants to voluntarily self-identify as persons with disabilities *before* making job offers only if:

¹²³ Personnel Regulations § 6-4. The Personnel Regulations list several factors that the OHR Director may use to disqualify applicants during the review process, including a lack of minimum qualifications (e.g., education, experience, license or certification), submitting inaccurate or false information with an application, and “prior unsatisfactory work performance relevant to the position applied for.” Ibid.

¹²⁴ Personnel Regulations § 6-8.

¹²⁵ Personnel Regulations § 7-1.

¹²⁶ Ibid.

¹²⁷ Personnel Regulations § 6-11.

¹²⁸ See 42 U.S.C. § 12112(d)(4).

- An employer has an affirmative action program based on federal, state, or local law that requires affirmative action for persons with disabilities; or
- An employer is “*voluntarily* using the information to benefit individuals with disabilities.”¹²⁹

If an employer does ask job applicants to self-identify as persons with disabilities, the employer must:

[S]tate clearly on any written questionnaire, or state clearly orally (if no written questionnaire is used), that the information requested is used solely in connection with its affirmative action obligations or efforts; and

[S]tate clearly that the information is being requested on a voluntary basis, that it will be kept confidential in accordance with the ADA, that refusal to provide it will not subject the applicant to any adverse treatment, and that it will be used only in accordance with the ADA.¹³⁰

The County Government does not have an affirmative action program for persons with disabilities. The County also does not gather data about job applicants in order to benefit persons with disabilities. Therefore, federal law prohibits the County Government from asking disability-related questions as part of the applicant screening process. In practice, this means the County is not legally allowed to inquire whether an applicant has a disability:

- On application forms;
- In job interviews; and
- In background or reference checks.¹³¹

2. Montgomery County Personnel Regulations

The Personnel Regulations do not address the collection of information about persons with disabilities during the hiring process.

¹²⁹ *ADA Enforcement Guidance* at 11 (emphasis in original).

¹³⁰ *Ibid.* at 12.

¹³¹ *ADA Technical Assistance Manual* § 5.5(a).

D. INTERVIEWING APPLICANTS

1. Federal Law: The Americans with Disabilities Act

Except in the limited circumstances described above, before making an applicant a job offer, the ADA prohibits an employer from:

- Asking if a job applicant has a disability;
- Asking about the nature or severity of a disability; or
- Requiring an applicant to undergo a medical examination.¹³²

To evaluate an applicant's abilities, an employer may ask about an applicant's ability to perform "specific job functions, tasks, or duties"¹³³ or "may ask an applicant to describe or to demonstrate how, with or without a reasonable accommodation, the applicant will be able to perform job-related functions."¹³⁴

The ADA allows employers to administer tests to job applicants.¹³⁵ However, if a test "screens out or tends to screen out an individual with a disability or a class of such individuals on the basis of disability, it must be job-related and consistent with business necessity."¹³⁶ Employers must provide "reasonable accommodations" to persons with disabilities taking a test.¹³⁷

The EEOC's *ADA Technical Assistance Manual* highlights obstacles that persons with disabilities can face during an interview process that can prevent "an accurate and objective assessment of an applicant's job qualifications."¹³⁸ An interviewer "may not know how to communicate effectively with people who have particular disabilities, or may make negative, incorrect assumptions about the abilities of a person with a disability because s/he misinterprets some external manifestation of the disability."¹³⁹ The *ADA Technical Assistance Manual* gives the following example:

An interviewer may assume that a person who displays certain characteristics of cerebral palsy, such as indistinct speech, lisping, and involuntary or halting movements, is limited in intelligence. In fact, cerebral palsy does not affect intelligence at all.¹⁴⁰

¹³² 29 C.F.R. § 1630.13(a).

¹³³ *ADA Technical Assistance Manual* § 5.5(a).

¹³⁴ 29 C.F.R. § 1630.14(a).

¹³⁵ *ADA Technical Assistance Manual* § 5.6.

¹³⁶ *Ibid.*

¹³⁷ *Ibid.*

¹³⁸ *Ibid.* § 5.5(f).

¹³⁹ *Ibid.*

¹⁴⁰ *Ibid.*

2. Montgomery County Personnel Regulations

The Personnel Regulations describe methods of evaluation that the County *may* use in its competitive rating process; these include an “oral examination” or a “demonstration of a job-related physical ability or skill.”¹⁴¹ Other than this provision, the Personnel Regulations do not dictate how County Government departments conduct job interviews.

E. JOB OFFERS AND MEDICAL INQUIRIES/EXAMINATIONS

1. Federal Law: The Americans with Disabilities Act

Job offers. Under the ADA, employers may not deny a job applicant an employment opportunity because of a person’s disability.¹⁴²

Medical Inquiries/Exams. Under the ADA, after an employer makes an applicant a job offer, it can require the applicant to answer medical questions or undergo a medical examination and can make the job offer conditional on the results.¹⁴³ An employer may not require an applicant to undergo a medical inquiry or exam prior to making a job offer.¹⁴⁴ Medical inquiries and exams “*do not* have to be job-related and consistent with business necessity.”¹⁴⁵

The ADA allows medical inquiries or exams only if:

- All employees “in the same job category” are required to answer medical questions or undergo examinations, “regardless of disability;” and
- The employer collects and maintains the medical information on separate forms and in separate files, which are treated as confidential medical records.¹⁴⁶

If all applicants in a job category must undergo a physical exam, an employer can follow up with additional tests or exams “when further information is needed.”¹⁴⁷ Additionally, based on information obtained in a medical questionnaire or exam, an employer may request more information or a follow-up exam from specific individuals “if the examinations or questions are medically related to the previously obtained medical information.”¹⁴⁸

If an employer uses the results of a medical inquiry or exam to not hire an applicant with a disability:

¹⁴¹ See Personnel Regulations § 6-5(b)(1).

¹⁴² 42 U.S.C. § 12112(a); see also 29 C.F.R. § 1630.4.

¹⁴³ 42 U.S.C. § 12112(d)(3); 29 C.F.R. § 1630.14(b).

¹⁴⁴ *ADA Technical Assistance Manual* § 6.1.

¹⁴⁵ 29 C.F.R. § 1630.14(b)(3) (emphasis added).

¹⁴⁶ 42 U.S.C. § 12112(d)(3); 29 C.F.R. § 1630.14(b).

¹⁴⁷ *ADA Technical Assistance Manual* § 6.4.

¹⁴⁸ *ADA Enforcement Guidance* at 19.

- “[T]he exclusionary criteria must be job-related and consistent with business necessity;” and
- The individual must not have been able to perform the essential functions of the job with a reasonable accommodation.¹⁴⁹

An employer may disqualify an applicant based on a medical exam if the individual “would pose a ‘direct threat’ to health or safety.”¹⁵⁰ However, an employer cannot disqualify an individual with a disability who is able to perform the essential functions of a job based on “speculation that the disability may cause a risk of future injury.”¹⁵¹

2. Montgomery County Personnel Regulations

Job offers. The Personnel Regulations require department directors to select an individual for hire from an eligible list if the position was opened for competition.¹⁵² Directors may select any individual from the highest rating category on an eligible list, as long as the selection is “consistent with equal employment opportunity policies.”¹⁵³ As discussed earlier (page 42), the County’s Equal Employment Opportunity policy requires the County to conduct employment activities – including hiring – so that all individuals have an equal opportunity and without regard to individuals’ disabilities.¹⁵⁴

Medical Inquiries/Exams. The Personnel Regulations address medical examinations by explicitly stating that they are meant to be “construed in a manner consistent with the ADA”¹⁵⁵

According to the Personnel Regulations, the Chief Administrative Officer (CAO) must establish medical standards for positions and occupations and guidelines for medical inquiries and exams.¹⁵⁶ The medical standards and the guidelines must be:

- “[J]ob-related and used to determine if the applicant . . . can perform essential functions of the job with or without accommodation;” and
- “[A]ppplied uniformly and consistently to all applicants and employees who are offered employment or employed in the same job class or occupational class.”¹⁵⁷

A job applicant “selected for a County position must meet the medical requirements for the position before the applicant is appointed to the position.”¹⁵⁸ The Regulations prohibit the County Government from conducting a medical inquiry or exam *for the*

¹⁴⁹ 29 C.F.R. § 1630.14(b)(3); *ADA Technical Assistance Manual* § 6.1.

¹⁵⁰ *ADA Technical Assistance Manual* § 6.1; see 42 U.S.C. § 12113(b).

¹⁵¹ *ADA Technical Assistance Manual* § 6.1

¹⁵² Personnel Regulations § 7-1.

¹⁵³ Personnel Regulations § 7-1(a).

¹⁵⁴ Personnel Regulations §§ 5-2(b), 5-3(a).

¹⁵⁵ Personnel Regulations § 8-2.

¹⁵⁶ Personnel Regulations § 8-4(a).

¹⁵⁷ Personnel Regulations § 8-4(a).

¹⁵⁸ Personnel Regulations § 8-3.

purpose of determining whether an applicant has a disability, “unless the examination or inquiry is job-related and consistent with business necessity.”¹⁵⁹

The Personnel Regulations establish different levels of medical exam “protocols.”¹⁶⁰ The required testing or amount of information under each protocol varies based on the type of activity or work required for a County Government position. Table 6-1 summarizes the testing and information required for each medical exam protocol.

**Table 6-1
Summary of Required Testing for County Government Medical Exam Protocols**

Medical Exam Protocol	Required	Required Depending on Duties of Position
Medical History Review	Medical History Form	
Limited Core Exam	Medical History Form	Vision and hearing tests; Drug test; Other tests; Hepatitis B vaccination.
Core Exam	Limited Core Exam requirements; Physical exam by a physician; Urinalysis; EKG; Additional blood tests; Tests for communicable diseases.	Rabies vaccination
Core I Exam	Core Exam requirements; Exercise treadmill test; Test to determine blood type; Respiratory function test.	
	Only for Police Officer, Deputy Sheriff, and Correctional Officer applicants: Physical ability testing.	
Core II Exam	Core I Exam requirements; Hepatitis B vaccination.	Tetanus booster
Core III Exam	Core II Exam requirements, but does not require Hepatitis B vaccination or tetanus booster.	

Source: Personnel Regulations § 8-6(b)(2)

¹⁵⁹ Personnel Regulations § 8-4(a)(5).

¹⁶⁰ See Personnel Regulations § 8-6(b)(2).

F. PROVIDING REASONABLE ACCOMMODATIONS

1. Federal Law: The Americans with Disabilities Act

Under the ADA, employers must make reasonable accommodations for qualified job applicants with disabilities, unless providing accommodations “would impose an undue hardship” on the County’s business.¹⁶¹ Additionally, it is illegal for an employer not to hire a qualified applicant with a disability in order to avoid providing a reasonable accommodation.¹⁶² In plain language, a “reasonable accommodation” is:

[A]ny modification or adjustment to a job, an employment practice, or the work environment that makes it possible for an individual with a disability to enjoy an equal employment opportunity.¹⁶³

Employers must provide necessary accommodations at any point during the hiring process, including at recruitment events or activities; during the job application stage; during job interviews; and during job testing.¹⁶⁴ The EEOC’s *ADA Technical Assistance Manual* suggests that employers state in job notices and on application forms that applicants who need accommodations may request them in advance.¹⁶⁵

2. Montgomery County Personnel Regulations

The Personnel Regulations do not outline procedures for job applicants to request or receive reasonable accommodations, except for job applicants who have already received a conditional job offer from the County Government.¹⁶⁶

For certain job classes, the County’s Employee Medical Examiner (EME) performs medical exams on applicants who have received conditional offers of employment. If the EME finds a job applicant “has a medical condition that impairs the individual’s ability to perform the essential functions of the job,” the EME “must determine if the applicant is a qualified individual with a disability under the ADA.”¹⁶⁷ If the EME finds that an applicant is a qualified individual with a disability, the OHR Director must determine if the applicant can be reasonably accommodated.¹⁶⁸ If so, the hiring department director must provide the applicant a reasonable accommodation, “unless the OHR Director determines that accommodation would impose an undue hardship on the County.”¹⁶⁹

¹⁶¹ 42 U.S.C. § 12112(b)(5); 29 C.F.R. § 1630.9(a).

¹⁶² 29 C.F.R. § 1630.9(b).

¹⁶³ *ADA Technical Assistance Manual* § 3.1.

¹⁶⁴ *Ibid.* §§ 5.4; 5.5(e); 5.5(f); 5.6.

¹⁶⁵ *Ibid.* § 5.5(f).

¹⁶⁶ See Personnel Regulations § 8-6(d).

¹⁶⁷ Personnel Regulations § 8-6(d)(1).

¹⁶⁸ Personnel Regulations § 8-5(a).

¹⁶⁹ Personnel Regulations § 8-6(d)(2).

The OHR Director may revoke an applicant's conditional job offer if:

- An applicant with a medical impairment is not a qualified individual with a disability under the ADA; or
- An applicant with a medical impairment is a qualified individual with a disability under the ADA, but the OHR Director determines "that reasonable accommodation would impose an undue hardship on the County."¹⁷⁰

The Personnel Regulations allow job applicants who have been "disqualified from consideration for a position or rated as medically unfit for appointment to a position" to file an appeal with the Merit System Protection Board.¹⁷¹ The Personnel Regulations do not, however, provide an appeal process for job applicants who request, but are denied, an accommodation.

G. WEBSITE ACCESSIBILITY

1. Federal Law: The Americans with Disabilities Act

Under the American's with Disabilities Act, public entities, like Montgomery County Government, must ensure that their websites have accessible features for persons with disabilities. The ADA prohibits qualified individuals with disabilities from "be[ing] excluded from participation in or be[ing] denied the benefits of services, programs, or activities of a public entity, or be[ing] subjected to discrimination by any such entity."¹⁷²

The U.S. Department of Justice (DOJ), which is responsible for ensuring ADA compliance in this area, advises that ADA compliance by public entities includes developing websites with features accessible to persons with disabilities.¹⁷³ DOJ guidance on developing accessible websites has a voluntary action plan with the following steps:

- Establish a policy that your web pages will be accessible and create a process for implementation;
- Ensure that all new and modified web pages and content are accessible;

¹⁷⁰ Personnel Regulations § 8-6(d)(3).

¹⁷¹ Personnel Regulations § 8-11(a).

¹⁷² 42 U.S.C. § 12132; see also 28 C.F.R. § 35.160(a).

¹⁷³ See "Accessibility of State and Local Government Websites to People with Disabilities," U.S. Department of Justice (June 2003). The DOJ notes that entities with inaccessible websites can comply with the ADA by:

[P]roviding an alternative accessible way for citizens to use the programs or services, such as a staffed telephone information line. These alternatives, however, are unlikely to provide an equal degree of access in terms of hours of operation and the range of options and programs available. For example, job announcements and application forms, if posed on an accessible website, would be available to people with disabilities 24 hours a day, 7 days a week.

Ibid.

- Develop a plan for making your existing web content more accessible;
- Ensure that in-house staff and contractors responsible for web page and content development are properly trained;
- Provide a way for visitors to request accessible information or services by posting a telephone number or E-mail address on your home page; and
- Periodically enlist disability groups to test your pages for ease of use.¹⁷⁴

See Appendix F for a copy of this guidance document.

2. Montgomery County Law

Neither Montgomery County's law nor regulations address County Government website accessibility for persons with disabilities.

¹⁷⁴ Ibid.

CHAPTER VII. Montgomery County Government Programs and Practices

This Chapter describes the County Government's practices with respect to hiring persons with disabilities. The first part of the chapter reviews how the County Government's recruitment, hiring, and training practices address issues relevant to persons with disabilities:

- **Section A, Office of Human Resources Recruitment and Hiring Practices**, summarizes County Government practices to recruit and hire persons with disabilities for merit system positions;
- **Section B, Providing Reasonable Accommodations**, describes the County Government's practice and procedures for evaluating requests for and providing reasonable accommodations during the hiring process;
- **Section C, Equal Employment Opportunity & Diversity Action Plans**, reviews the County Government's most recent EEO & Diversity Action Plan and summarizes the number of complaints against the County Government alleging discrimination based on disability;
- **Section D, County Government Training**, summarizes County Government courses that address topics related to persons with disabilities; and
- **Section E, Online Job Applications and Website Accessibility**, describes the County Government's efforts to make the County's website accessible to persons with disabilities.

The last two sections provide information about the two County Government programs designed explicitly for hiring persons with disabilities:

- **Section F, Customized Employment Public Intern Project**, describes the County Government's program, funded for the first time in FY08, to hire persons with disabilities into non-merit County Government positions;
- **Section G, Administrative Procedure 1-10, Disability Employment Training/Services Contracting**, describes the administrative procedure for awarding County Government contracts to organizations that employ persons with disabilities.

A. OFFICE OF HUMAN RESOURCES RECRUITMENT AND HIRING PRACTICES

1. Recruitment for Merit System Positions

Developing Job Announcements. OHR's Recruitment and Staffing Team work with County Government departments to develop job announcements, which contain minimum qualifications and preferred criteria. OHR staff draft minimum qualifications for a position based on the minimum experience, education, and licensing identified in the County job class specification for the position. Hiring department staff create the first draft of preferred criteria, which are then reviewed by OHR staff. Preferred criteria list the essential functions of a specific position based on the needs and requirements of the hiring department. Hiring department staff evaluate and rate candidates based on preferred criteria.

OHR staff review preferred criteria and work with hiring department staff to ensure that the final criteria do not contain requirements that would unnecessarily (or illegally) screen out qualified people, including persons with disabilities.

Outreach at Career Fairs. This year (FY08), OHR's Recruitment and Staffing Team participated in various outreach efforts specifically targeted to recruiting persons with disabilities. OHR staff attended: a conference and job fair sponsored by the Maryland Association for the Deaf and a meeting with MontgomeryWorks partners to discuss County Government employment opportunities.

OHR staff report that the Recruitment and Staffing Team curtailed its outreach activities following the January 2008 announcement of a County Government hiring freeze. However, OHR staff still plan to participate in the National Disability Career Fair, which is a part of the World of Possibilities: Disabilities, Healthy Aging and Independent Living Expo, a forum for sharing and promoting resources for seniors and persons with disabilities.

Advertising. OHR staff work with the Employer Assistance and Recruitment Network (EARN) to advertise County Government positions to persons with disabilities. OHR staff report that the County Government has posted open positions on the EARN website on occasion over the past three years. EARN's website – www.EARNworks.com – provides a searchable database of available jobs to match employers and persons with disabilities who are seeking jobs. For a more detailed description of EARN, see Chapter V on page 40.

Historical information on which positions were posted on EARNworks website was not readily available. However, OHR staff report the following interactions/agreements with EARNworks to promote County positions:

- In the fall of 2006, EARNworks sent a flyer through e-mail to job seekers promoting Montgomery County as an employer (See Appendix G for a copy of this flyer);
- In the spring of 2008, EARNworks agreed to choose ten County positions from the County’s career website and post them weekly on EARNworks; and
- In March 2008, EARNworks began promoting employment with Montgomery County Government on the main page of its website (See Appendix H for a copy of the promotional material).

Information on Career Website. The County Government’s website provides some job information targeted to potential job applicants who have a disability. The County Government’s career website (www.montgomerycountymd.gov/content/ohr/career/) includes the following two links:

- Information for Applicants with Disabilities; and
- Customized Employment Public Intern Project.

See Section F (below) for a description of the Customized Employment Public Intern Project – the County Government’s internship program for persons with disabilities.

The “Information for Applicants with Disabilities” web page describes how job applicants can receive an accommodation when applying and interviewing with the County Government. The web page states that:

The County will provide, upon request, reasonable accommodations to qualified applicants and employees with disabilities, unless doing so would cause an undue hardship to the agency.

The web page provides a telephone number, a TTY telephone number,¹⁷⁵ and an e-mail address¹⁷⁶ for applicants who want to request an accommodation during the hiring process.

Position descriptions posted on the County’s career website provide a link to “Employment Application Procedures and Information,” which states:

- “It is the policy of Montgomery County to conduct all employment activities in a manner that will ensure equal opportunity in employment for all persons without regard to race, color, national origin, religion, sex, sexual orientation, marital status, age, or **disability** or any other protected category as defined by relevant discrimination laws;” and

¹⁷⁵ TTY refers to “Telephone Text.” A TTY device “lets people who are deaf, hard of hearing, or speech-impaired use the telephone to communicate, by allowing them to type messages back and forth to one another instead of talking and listening. A TTY is required at both ends of the conversation in order to communicate.” See www.abouttty.com.

¹⁷⁶ Special.Accommodations@montgomerycountymd.gov.

- The “[p]referred criteria listed in the job announcement describe knowledge, skills and abilities required to perform the essential functions of the job.”

Collecting Data on Job Applicants. The County does not request or collect information about job applicants’ disability status before making conditional job offers. According to OHR staff, the County also does not collect disability information for statistical use because:

- Asking job applicants to disclose whether they have a “disability” would produce inaccurate data because individuals do not use the term “disability” consistently and may use the term in a manner that is inconsistent with the definition in the ADA;
- Persons with disabilities often are reluctant to disclose information about their disability when applying for jobs for fear of discrimination; and
- While the federal government mandates that employers collect demographic information about job applicants’ race and gender, collecting similar information about disability status is not mandated by federal law or regulation.

After the County Government makes an applicant a conditional job offer, a job applicant must fill out the County’s form, “Report of Applicant’s Medical History,” (“Medical History form”) and for some job classes, undergo a medical examination. The Medical History form requires applicants to disclose information about their disability status. See page 58 (below) for a more detailed discussion of conditional job offers and the Medical History form.

2. Interviewing and Hiring

Interviewing Job Applicants. In general, department-based staff conduct County Government job interviews. Interview practices and procedures vary across departments. OHR provides written guidelines and offers training for County employees involved in the interview process.

In 2006, OHR’s Recruitment and Staffing Team developed the *Selection Guidelines for Montgomery County: A Users Guide for Hiring Managers*.¹⁷⁷ When the Recruitment and Staffing Team sends an eligible list to a hiring manager via e-mail, it refers the hiring manager to a link to the *Selection Guidelines* online.

The *Selection Guidelines* include information about how to select candidates to interview, prepare for an interview, evaluate interview candidates, and follow up with candidates after the interview. The *Selection Guidelines* also direct interviewers to consider “only job related information” during the interview process. Specifically, the guidelines indicate that during an interview:

Special care must be taken to ensure that all applicants are treated the same. Any reference to . . . medical or disability status . . . must be

¹⁷⁷ See *Selection Guidelines for Montgomery County: A Users Guide for Hiring Managers*, Office of Human Resources [hereinafter *Selection Guidelines*].

avoided. Even if the applicant brings up the issue, do not pursue it, return to job related information.¹⁷⁸

A table in the *Selection Guidelines* lists, by subject, questions that are illegal and questions that are “legal if job related.” Under the subject “Disability,” the guidelines state that “[y]ou may not ask if someone has a disability, about someone’s medical history, or if a medical condition affects the person’s abilities. You may ask if a person can perform specific duties of the job.”¹⁷⁹

The *Selection Guidelines* also include sample interview questions and methods for evaluating candidate responses. The “Presentation/Communication” topic lists evaluation criteria that could impact whether persons with certain disabilities receive a fair evaluation. The criteria direct interviewers to evaluate an interview candidate based on the candidate’s ability to communicate in purely physical ways – e.g., articulation, mannerisms, gestures, eye contact, vocal inflection – but do not discuss how individual applicants’ abilities to communicate vary. The *Selection Guidelines* state the following:

This position requires both good writing and verbal skills for good communication. When it comes to giving information to employees that can be done either way, do you prefer to write a memo OR talk to employees?

*Evaluation of this dimension should be based on such things as poise, bearing, articulation, mannerisms, gestures, eye contact, vocal inflection, and word choice as well as comfort with writing and using office machines.¹⁸⁰

In addition to the *Selection Guidelines*, OHR provides a pocket-sized interview guide, which provides guidance on:

- Writing interview questions;
- Common interview mistakes;
- Types of interview questions;
- Interview questions to avoid because they may be illegal;
- Post-interview procedures; and
- Collecting applicant data and preparing interview records.

The guide identifies disability- and health-related questions to avoid, alternate questions, and legal implications. The guide notes that interviewers may ask questions about an applicant’s ability to perform job functions and meet attendance requirements, but cautions that interviewers “cannot limit such inquiry strictly to applicants with actual or perceived disabilities.”

Medical Inquiries and Examinations. All job applicants with conditional offers of employment from the County Government must complete a Medical History form. In addition, certain job classes must undergo physical exams of varying degrees. Each

¹⁷⁸ *Selection Guidelines* at 6.

¹⁷⁹ *Selection Guidelines* at 34.

¹⁸⁰ *Selection Guidelines* at 19.

Montgomery County Government job class specification indicates the required medical protocol for the job class. The Occupational Medical Services (OMS) Team in the Office of Human Resources oversees job applicants' medical inquiries and examinations. The County Government contracts for the medical personnel in OMS, including the County Government's Employee Medical Examiner (EME). The current contract for medical personnel also provides OMS with nurses, physician's assistants, x-ray technicians, medical assistants, and clerical staff.

Job applicants must disclose information about their physical and mental condition on the County Government's Medical History form, including information about disabilities. The County Government does not compile this information for tracking purposes.

The first page of the form indicates the stated purpose of the form and the County's obligation to provide reasonable accommodations under the ADA:

You have received an offer of employment conditioned on the result of this medical evaluation. The information submitted is used to determine your ability to perform the essential functions of the job for which you applied and could be used for evaluation in future workers' compensation claims. If necessary, you may request a reasonable accommodation consistent with provisions of the Americans with Disabilities Act and Montgomery County Personnel Regulations The aforementioned law and County regulation in part require that an applicant be able to perform the essential job functions, with or without a reasonable accommodation. The County will take appropriate action to comply with any such request. . . . **Note:** This form is both a County personnel record and a record of the County's retirement system. Any information presented on this medical history form may also be used to evaluate an individual's future eligibility for disability or disability retirement benefits.

The form also states that:

Any intentionally false or misleading statement may result in the rejection of my application for employment or in my discharge from County employment. Such a false or misleading statement may also exclude me from coverage in the County medical disability retirement or disability benefit programs.

Table 7-1 (next page) includes examples of questions on the Medical History form.

Table 7-1
Examples of Questions on the County Government’s Medical History Form

Question
Do you currently have any physical or mental conditions or are you currently disabled in any way that may limit your ability to perform the job for which you have applied?
Do you wear a hearing aid or use an assistive device such as (i.e. wheelchair, cane, crutches, walker, or artificial limb)?
Do you have any disability requiring a reasonable accommodation in order for you to perform this job?
Have you been refused employment or been terminated from a job due to: 1. sensitivity to chemicals, dust, sunlight, etc. 2. inability to perform certain motions 3. inability to assume certain positions 4. any other medical, psychological, or physical reason?
Have you within the past 3 years, had to change jobs because of a diagnosed injury, or illness (physical or psychological)?

Source: OMS Medical History form

Job applicants must indicate on the Medical History form whether, in the past three years, they have been diagnosed with any of 68 different medical conditions or experienced any of 18 different symptoms. Applicants must disclose the following information on the form:

- Allergies,
- Immunizations,
- Prescription medication use,
- Over-the-counter medication use, and
- Exposure to certain chemicals and types of loud noises.

See Appendix I for a copy of the Medical History form.

OMS staff report that based on information provided in the Medical History form, the County may require a job applicant to meet with a physician and undergo a physical exam. The Employee Medical Examiner fills out a Medical Exam and Rating form for each job applicant based on information in the Medical History form and information from the medical exam, if one was performed. Each applicant is given a “Preliminary Rating” of either:

- “Fit for Duty”;
- “Not Fit for Duty”; or
- “Fit for Duty – Accommodation Conditions or Restrictions.”

If an applicant is rated “fit for duty” and needs an accommodation, OMS asks the hiring department if they can provide an accommodation. The process for providing reasonable accommodations is described below.

B. PROVIDING REASONABLE ACCOMMODATIONS

Montgomery County Government provides reasonable accommodations under the ADA for job applicants with disabilities based on requests from applicants. The County Government's web page with "Information for Applicants with Disabilities" provides contact information for job applicants who want to request accommodations when applying for a position, when interviewing for a position, and when hired for a position.

The County Government website has an OMS form online for employees to request reasonable accommodations, but does not have a corresponding form for job applicants. See Appendix J for a copy of this form. The County Government does not have written procedures outlining the process for requesting and evaluating requests for accommodations.

Based on discussions with OMS staff, the remainder of this section describes how a job applicant's request for a reasonable accommodation works in practice and includes data on accommodations provided by the County Government from FY05-FY07. Finally, this section describes the Worker Assistance Program, which is available to provide accommodations to employees who do not qualify for accommodations under the ADA.

Requesting an Accommodation. Throughout the hiring process, the job applicant is responsible for requesting a needed accommodation. For an accommodation when completing an application, during an interview, or during testing, a job applicant follows the following process:

- An applicant notifies the OHR Recruitment Specialist or the hiring manager, verbally or in writing, of the need for an accommodation.
- The Recruitment Specialist or the hiring manager notifies the Disability Program Manager in Occupational Medical Services of the request.
- The Disability Program Manager contacts the applicant to determine whether to provide an accommodation.

An applicant who receives a conditional job offer may request an accommodation, either verbally or in writing, for a physical exam or to perform the essential functions of a position. Applicants with disabilities who need an accommodation to perform essential functions of a job must indicate this on the County's Medical History form. At this point, the Disability Program Manager, the Employee Medical Examiner, and the hiring manager review the request.

Granting or Denying an Accommodation. The Disability Program Manager in OMS determines whether an applicant is a person with a disability who qualifies for reasonable accommodation under the ADA and whether there is an appropriate accommodation for the job. OMS considers:

- **Whether the person has a qualifying disability under the ADA.** OMS requires medical documentation of a person's disability and resulting employment limitations for individuals with non-obvious disabilities or disabilities where limitations are not obvious. For individuals with obvious disabilities (e.g., blindness or deafness), OMS might not require medical documentation. OMS reviews and considers medical documentation from both a job applicant's personal physician(s) and from the County Government's EME, if the applicant undergoes a County Government medical exam.
- **What type of accommodation the person needs to address limitations.** OMS works with the job applicant, hiring manager, and employee medical examiner to determine whether a reasonable accommodation would allow the employee to participate in the hiring process and/or perform the essential functions of a position. While the County Government must provide a reasonable accommodation, the County Government is not required to provide the specific accommodation requested by an applicant.
- **Whether the accommodation is "reasonable."** Under the ADA, the County must provide accommodations if they do not create an "undue hardship" on the County Government. According to OMS staff, an accommodation creates an undue hardship if it is unduly costly, unduly extensive, changes the process of the job, or alters the nature of the job. OMS staff report that the County Government can rarely claim that an accommodation is unduly costly because the analysis is based on Montgomery County Government's total resources as an employer, not on an individual department's resources.

Additionally, a reasonable accommodation for testing or for a physical exam cannot alter an essential part of the test or the exam (i.e., an applicant cannot request extra time to complete an exam if the purpose of the exam is to test speed).

OMS may deny a request for an accommodation if the person does not qualify as a person with a disability under the ADA or if providing an accommodation would create an undue hardship. OMS notifies the department and the applicant in writing when a request for an accommodation is denied. OMS does not include information about how or to whom an applicant may appeal the denial of a request for an accommodation.

Funding for Accommodations. The FY08 budget for the Office of Human Resources includes \$15,000 designated as a centralized fund to help departments pay for reasonable accommodations for employees and job applicants. Staff in OMS administer the fund. Departments must pay the first \$500 of any accommodation cost, and then may request assistance from the central fund. The County Government does not have guidelines describing how accommodation costs over \$500 will be allocated between a department and the reasonable accommodation fund.

Currently, there is no special publicity to departments about the existence of the centralized fund for reasonable accommodations, no information about the fund on the County Government's website, and no information about the fund is included in the

County Government’s ADA trainings. The County’s reasonable accommodation request form for employees (not for applicants) states that “OHR will share expenses on accommodations greater than \$500.00” but does not mention the reasonable accommodation fund. In FY06, not knowing about the existence of the fund, the Commission on People with Disabilities recommended to the County Executive and the County Council that the County Government establish a centralized fund.¹⁸¹ The Commission reiterated this idea to OLO in November 2007.

As of April 3, 2008, the County had spent \$344 from the FY08 fund. As shown in Table 7-2, larger amounts were spent in FY05 and FY07.

Table 7-2
Reasonable Accommodation Fund
Allocations and Expenditures, FY05-FY08

Fiscal Year	Total Fund Amount	Total Expenditures
FY05	\$8,000	\$7,297
FY06	\$8,000	\$0
FY07	\$8,000	\$6,904
FY08	\$15,000	\$344*

Source: OHR: OMS

* As of April 3, 2008

Accommodations Provided from FY05-FY07. OMS divides accommodations provided by the County Government into two broad categories:

- **Tactile accommodations** including sign language interpreters, assistive devices, computer software, and other items. Tactile accommodations generally have a specific cost associated with them.
- **Abstract accommodations** such as flexible schedules, telecommuting, and job restructuring. Typically, these accommodations do not have a specific cost associated with them, and most do not have any associated cost.

Table 7-3 (next page) describes accommodations the County Government provided through OMS to applicants and employees from FY05-FY07. Many County Government departments provide accommodations for employees without OMS’ assistance. OMS does not require County departments to report these “informal” accommodations to OMS and the data in Table 7-3 do not reflect these accommodations. The data show that:

¹⁸¹ Commission on People with Disabilities Annual Report (2006).

- From FY05 to FY07, the County received 43 formal requests for reasonable accommodations. Of these requests, four (9%) were denied.
- From FY05 to FY07, job applicants made nine accommodation requests and County employees made 34 requests.
- The County provided 18 tactile accommodations, 20 abstract accommodations, and one combination tactile and abstract accommodation.

Table 7-3
Summary of Reasonable Accommodation
Requests to OMS and Outcomes, FY05-FY07

	Tactile	Abstract	Tactile/ Abstract	Denied	Total
FY05					
Applicant	0	1	0	0	1
Employee	8	6	1	0	15
<i>Subtotal</i>	8	7	1	0	16
FY06					
Applicant	0	1	0	1	2
Employee	4	7	0	2	13
<i>Subtotal</i>	4	8	0	3	15
FY07					
Applicant	2	3	0	1	6
Employee	4	2	0	0	6
<i>Subtotal</i>	6	5	0	1	12
Total FY05-FY07	18	20	1	4	43

Source: OHR: OMS

The table below shows the variety of tactile and abstract accommodations provided from FY05 to FY07.

Table 7-4
Types of Accommodations Provided, FY05-FY07

Tactile Accommodations	Abstract Accommodations
<ul style="list-style-type: none"> • Door stopper • Face mask • File cabinet • HEPA air filter • Braille embosser • Monitor magnifier • Large computer monitor • Computer software (e.g., voice activated software) • Assistive technology • Sign language interpreter 	<ul style="list-style-type: none"> • Increased testing time • Telecommuting • Flexible scheduling • Job restructuring • Job relocation • Reassignment to vacant positions • Office modification • Training

Source: OHR: OMS

OHR data show that about half (20) of the accommodations provided from FY05-FY07 had no associated cost. Examples of “no cost” reasonable accommodations include:

- Increased testing time;
- Flexible scheduling; and
- Job restructuring.

Of those accommodations that had a cost (19), the employee’s department paid for 15 accommodations, OHR paid for two, and the department and OHR shared the cost of one accommodation. One accommodation was paid for by the employee’s health insurance.

Appealing a Denial of a Reasonable Accommodation. As indicated above in Table 7-3, the County Government denied two requests for accommodations by job applicants between FY05 and FY07. The County Government has not established a process for job applicants to appeal the denial of a request for an accommodation.

Worker Assistance Program. OHR established the Worker Assistance Program in FY06 to provide accommodations to County Government employees or applicants with a conditional job offer who are not considered “disabled” under the ADA. The program is designed to help employees who have temporary disabilities (i.e., limited mobility due to a broken leg) or who have ongoing problems that do not affect a major life activity. Assistance could include either tactile or abstract type accommodations.

Since its inception in FY06, no employees have requested or received assistance through the program. In January 2006, the OHR Director sent department directors a memo briefly describing the program and indicating a request form would be available through OMS’ County intranet website. Currently, the request form is not available through either the County intranet or internet websites. The program has not been publicized directly to County employees. See Appendix K for a copy of the Worker Assistance Program Request Form.

Employees seeking an accommodation under the program must submit a completed Worker Assistance Program form to their supervisor. The form asks employees to indicate whether they:

- Claim a disability;
- Receive assistance at home, in the community, or in other environments;
- Indicated need for assistance on the Medical History form; and
- Will meet with the Disability Program Manager.

The form indicates that receiving assistance under the program does not entitle the person to an accommodation under the ADA. County departments must pay the full cost, if any, for providing assistance under the program.

C. EQUAL EMPLOYMENT OPPORTUNITY (EEO) & DIVERSITY ACTION PLANS

The County Government's EEO & Diversity Action Plan compiles data and information about County Government activities related to EEO and diversity. The County Government most recently published an EEO & Diversity Action Plan in 2004.

The 141-page document reports workforce and County demographic data for FY03 and uses these data to assess whether certain groups are underrepresented in the County Government's workplace. The FY04 EEO Plan also describes diversity initiatives for all of the County Government's Executive Branch departments. OHR staff is reportedly working on an updated EEO Plan, which will contain workforce information from FY06.

The FY04 EEO Plan does not contain any specific demographic data on persons with disabilities in the County workforce. As indicated above (see page 57), Montgomery County does not compile data on the number of County Government job applicants or employees with disabilities. The County collects and publishes workforce demographics detailing the number of employees only by gender, age, and race/ethnicity.¹⁸²

With respect to persons with disabilities, the FY04 EEO Plan describes County Government efforts, including:

- County Government services for disabled employees, including counseling, reasonable accommodations, alternative placement, and disability retirement counseling;
- FY03 EEO and diversity initiatives of County Government departments, such as providing disability program management services, hosting students for Disability Mentoring Month, and upgrading a computer lab for persons with disabilities at the Special Needs Library;
- The County employment of an ADA Compliance Officer, who is responsible for ensuring that County Government programs, services, buildings, and other facilities comply with the ADA; and
- The County Government's EEO complaint processing program.

Recent Complaint Data. Table 7-5 (next page) lists the number of internal complaints alleging discrimination based on a disability filed each year against the County Government between 2003 and 2007. The data show that, on average, County Government employees filed seven such complaints each year from 2003 to 2007 against the County Government.

¹⁸² See 2007 Personnel Management Review (PMR), Office of Human Resources.

**Table 7-5
Number of Internal Complaints Against Montgomery County Government
Alleging Discrimination Based on Disability,
2003-2007**

Year	# of Complaints Alleging Discrimination – Total	# of Complaints Alleging Discrimination – Disability	Percent of Total Complaints
2003	46	9	19.6%
2004	55	4	7.3%
2005	74	7	9.5%
2006	79	7	8.9%
2007	99	6	6.0%
Total	353	33	9.3%

Source: OHR data

Of these 33 complaints, the EEO/Diversity Team concluded that there was sufficient evidence to believe that discrimination occurred in three complaints, there was not sufficient evidence to believe that discrimination occurred in 14 complaints; and 16 complaints were closed administratively.

Staff in the Office of the County Attorney report that no lawsuits have been filed in court (as opposed to internal complaints listed in Table 7-5) against the County Government in the past four years alleging discrimination based on disability.

D. COUNTY GOVERNMENT TRAINING

The Office of Human Resources’ Training and Organizational Development team oversees the training and development opportunities for County Government employees. Several courses address topics related to persons with disabilities. Additionally, new County government employees view a video – *The Ten Commandments of Communicating with People with Disabilities* – at the employee orientation program about interacting with persons with disabilities.

The County Government does not have a mandatory training course devoted to topics surrounding the hiring persons with disabilities. Table 7-6 (next page) lists the courses that do address topics related to persons with disabilities.

**Table 7-6
Summary of OHR Courses
that Address Topics Related to Persons with Disabilities**

Course Title	Mandatory for:
Required Courses	
EEO/Diversity Management for Managers and Supervisors	All managers and supervisors
Interviewing and Selecting Employees	Beginning in FY09 – all hiring managers and all employees on interview panels
Preventing Workplace Harassment	All employees
Elective Courses	
Americans with Disabilities Act – Employment Law	
Americans with Disabilities Act – Local Government Services	
ADA – Serving Customers with Disabilities	
Disability Case Management Program: The Supervisor’s Role	

Source: Planning for the Future FY2008: Building a Learning Organization, OHR

County Government training includes several training programs that award certificates to employees who complete all requirements. Two of these programs offer courses that address topics related to persons with disabilities. Table 7-7 identifies these programs and lists the associated training courses that address topics related to persons with disabilities. Each program requires at least one such course.

**Table 7-7
Summary of OHR Training Programs
that Address Topics Related to Persons with Disabilities**

Course Title	Required by Program?
Diversity Studies Program – Supervisory/Managerial Track	
ADA – Serving Customers with Disabilities	
Americans with Disabilities Act – Employment Law	
Americans with Disabilities Act – Local Government Services	
Preventing Workplace Harassment	Yes
Diversity Studies Program – Employee Track	
ADA – Serving Customers with Disabilities	
Preventing Workplace Harassment	Yes
Human Resources Management Program	
Americans with Disabilities Act – Employment Law	Yes
EEO/Diversity Management for Managers and Supervisors	Yes
Preventing Workplace Harassment	Yes
Americans with Disabilities Act – Local Government Services	
Disability Case Management Program: The Supervisor’s Role	
Interviewing and Selecting Employees	

Source: Planning for the Future FY2008: Building a Learning Organization, OHR

E. ONLINE JOB APPLICATIONS AND WEBSITE ACCESSIBILITY

The County Government publishes job vacancy announcements on its website and has an online job application process. Under the Americans with Disabilities Act, the County Government must ensure that these and all other parts of its website are accessible for persons with disabilities.¹⁸³ The County Government's Public Information Office (PIO) and the Department of Technology Services (DTS) share overall responsibility for the County Government's website.

Individual departments are responsible for ensuring accessibility of their own website information and service features, e.g., online job application process, online reporting of discrimination complaints. The County offers an optional training course for staff who use the software to edit County Government web pages. As currently structured, this course does not address website accessibility.

The County Government's only formal website accessibility guidance for employees is posted on the County Government's intranet. In sum, this guidance:

- States that all web information and resources must be accessible and designed for use by screen readers and other specialized software;
- Provides a link to a U.S. Department of Justice publication on website accessibility; and
- Identifies individual department information technology (IT) staff as the resource for assistance with making websites accessible to persons with disabilities.

For reference, Appendix F contains a copy of DOJ's website accessibility information.¹⁸⁴

The Office of Human Resources is responsible for ensuring that the County's online job application process and online career information is accessible to persons with disabilities. There is no specific person designated either in the PIO or DTS for hands-on assistance with designing accessible websites. Further, no County Government staff member has responsibility for monitoring website accessibility as a whole or for verifying that individual department websites are accessible to persons with disabilities.

Most County Government web pages have a "text version" link to facilitate the use of assistive technology with the County Government's website. OLO conducted a sample test of this technology and found that it was not working reliably, including on the "Career" information web pages maintained by the Office of Human Resources. Appendix L lists specific web pages on which the "text version" link was not working in late April and early May of this year.

¹⁸³ See 42 U.S.C. § 12132; 28 C.F.R. § 35.160(a).

¹⁸⁴ This DOJ information is based on Section 508 of the federal Rehabilitation Act, which requires federal agencies to make their electronic and information technology accessible to people with disabilities. See 29 U.S.C. § 794d.

Browsealoud. The County’s website is enabled to work with a program called “Browsealoud” that users can download (at no cost) from the County Government website. Browsealoud reads webpage text aloud when the user places the cursor over specific words or a link.

The “Accessibility” link on the bottom of all County Government webpages takes users to information about this program. The County Government website states that:

The [Browsealoud] service is designed to provide speech-enabled content to users with:

- Low literacy and reading skills;
- Limited English proficiency;
- Dyslexia or related disabilities; and
- Mild vision impairments.

Accessible Work Stations. In FY07, the Office of Human Resources purchased screen reader software for three publicly-available computers located in the Office of Human Resources.

F. CUSTOMIZED EMPLOYMENT PUBLIC INTERN PROJECT

The FY08 County Government budget, as proposed by the Executive and approved by the Council, included \$150,000 to establish the County Government’s Customized Employment Public Intern Project. The purpose of the Intern Project is to provide short-term, part-time, non-merit County Government jobs for persons with disabilities.¹⁸⁵

Fifty thousand dollars of the \$150,000 was allocated to the Office of Human Resources to contract for a Project Coordinator; the other \$100,000 was allocated to the Department of Health and Human Services to pay the interns’ wages.

Program Implementation. In May 2007, OHR developed a new class specification that includes the intern position – a County Government Assistant – at the Grade 1 level. See Appendix M for a copy of the class specification.

The County Government hired the Project Coordinator by amending an existing County contract with TransCen, Inc. (a primary partner of MontgomeryWorks). The job of the

¹⁸⁵ In general, customized employment programs identify the skills and abilities of a person with a disability then negotiate with employers to create a job based on the person’s skills and the employer’s business needs. An employer may create a position by identifying unmet needs or carving out tasks from existing positions. *Customized Employment: Applying Practical Solutions for Employment Success. Volume 2*, Office of Disability Employment Policy, U.S. Department of Labor (Dec. 2006). The County’s program differs slightly because it begins with a hiring department developing a job that meets the employer’s needs and then offers it to persons with disabilities. See Chapter IV on page 21 for a description of “customized employment.”

Project Coordinator is to work with interested County Government departments to identify, develop, and fill intern positions.

The Project Coordinator started working on July 1, 2007. TransCen staff developed and County staff approved the structure of the project. The Project Coordinator receives direction from the OHR Director and the Chief of DHHS' Aging and Disability Services.

Developing and Advertising Positions. To publicize the project: OHR's "Careers" website was amended with a link to information about the program and to application materials. In addition, the County Executive highlighted the intern project at the September 2007 Quarterly Leadership Forum and the OHR Director and the Director of DHHS sent a joint memorandum about the project to all County department directors in October 2007.

County departments interested in the internship project contact the TransCen Project Coordinator. The Project Coordinator explains the process and works with a department to identify specific unmet tasks in the department. Based on these discussions, the Project Coordinator develops a "task list" for a position that describes essential functions that an applicant must be able to perform.

Following department and County approval, the Project Coordinator advertises an intern position through an e-mail distribution list that includes, among others, community agencies that work with persons with disabilities and other groups and networks that focus on persons with disabilities. See Appendix N for a copy of the application procedures, an information intake form, and examples of task lists.

Interviewing and Selecting Candidates. To apply for a position, individuals must fill out an application, submit a resume and check off the tasks they can perform on the task list for the position. The Project Coordinator reviews applications, interviews all applicants that apply for a specific position, and verifies an applicant's disability. The Project Coordinator then refers qualified candidates to the hiring department for a second interview.

Departments may ask a job candidate to participate in a "working interview" to evaluate how the candidate performs the required tasks. Applicants hired for the program must show proof of a disability prior to beginning work.

Current Project Status. For the initial year of the project (FY08), the Intern Project's goal is to hire interns to work a total of 13,000 hours. Project interns are classified as "short-term" non-merit County employees – limited to working no more than 900 hours in a 12-month period and no more than two 12-month periods.¹⁸⁶ Employees earn \$7.20 per hour and do not receive benefits or accrue paid leave. Interns can work between one and 18 hours per week.

¹⁸⁶ See MCC § 33-20 and Personnel Regulations § 7-3(b) for the law and regulation governing short-term employees.

As of March 2008, the County has hired 23 interns in six departments. Interns work, on average, 10.5 hours per week. Table 7-8 summarizes data about interns hired through the program.

**Table 7-8
Summary of Employment Data for the Customized
Employment Public Intern Project**

Month	Hiring Department	Number of New Hires	Hours/Week	Average Weekly Hours/New Hire
October	DHHS	5	30	6
	Transit	2	18	9
November	OHR	2	27	13.5
	DHHS	1	9	9
December	–	0	–	–
January	DHHS	2	27	13.5
	OHR	1	6	6
February	DHHS	3	36	12
	DPWT	2	20	10
	DTS	1	18	18
March	DLC	4	60	15
Total		23	251	10.9

Source: DHHS and TransCen, Inc.

As of April 2008, the County has created, but not filled, three additional positions. The County Executive’s recommended FY09 Operating Budget maintains the FY08 funding for the program – \$100,000 for intern salaries and \$50,000 to fund a contract for a Project Coordinator.

Commission on People with Disabilities’ Input on County Government Hiring.

Beginning in July 2007, the Commission on People with Disabilities and the County Executive exchanged letters about including persons with disabilities in the County’s efforts to strengthen minority recruitment. The Commission praised the County’s efforts, including the internship program, and it encouraged the County Executive to make more employment opportunities available for persons with disabilities. (See Appendix N1 for copies of these letters.)

G. ADMINISTRATIVE PROCEDURE 1-10, DISABILITY EMPLOYMENT TRAINING/SERVICES CONTRACTING

Administrative Procedure (AP) 1-10 establishes policies and procedures for the County Government to procure services through “training contracts” with agencies “engaged in providing employment training services to people with disabilities.” The Chief

Administrative Officer approved the first iteration of AP 1-10 in the early 1990s; the County most recently revised AP 1-10 in 2003.

1. Overview of Policy and Procedures

AP 1-10 outlines an inter-departmental process for developing these contracts. The three offices/departments with lead responsibilities are the Office of the Chief Administrative Officer (CAO), the Office of Procurement, and the Department of Health and Human Services. These responsibilities are described below.

Under AP 1-10, the CAO must annually solicit and approve a list of contract services that departments plan to procure – via requests for proposals (RFP) – from employment agencies that provide services to persons with disabilities. The RFP evaluation criteria must include the description of services to be provided and the price proposed by the bidding agency and “[p]oints allocated to price [in the evaluation criteria] may not exceed the points allocated to any other individual selection criteria.” AP 1-10 contracts may not be renewed for more than a total of five years.

AP 1-10 designates the Department of Health and Human Services to provide guidance to departments throughout the solicitation process. DHHS’ role includes:

- Assisting with identifying services that could appropriately be provided by an employment agency that serves persons with disabilities;
- Helping to develop the RFP and the selection criteria; and
- Participating on the Qualification and Selection Committee to evaluate the proposals.

According to AP 1-10, the Office of Procurement must:

- Distribute the RFP “consistent with Procurement Regulations;”
- Send proposals to the department; and
- Execute the contract.

Finally, the CAO must request annual reports from the departments on their use of AP 1-10, including the total number of contracts awarded, the number of contracts departments did not renew, and any concerns with performance.

2. Current Administrative Procedure 1-10 Contract Awards

The County Government currently does not maintain an ongoing list of contracts awarded using AP-10. At OLO’s request, the Office of Procurement conducted a survey of County departments about their current use of AP 1-10. Table 7-9 summarizes the information compiled by the Office of Procurement in April 2008. In sum:

- There are currently three contracts issued under AP 1-10;
- Two of the contracts are for custodial services and one is for book sorting; and

- The value of the three contracts over the total life of the contracts is \$532,771.

**Table 7-9
Contracts Issued Under AP 1-10, FY08**

Contract Administrator	Total Amount Paid Over Life of Contract	Agency Awarded Contract	Services Provided
Department of Public Works and Transportation (DPWT)	\$34,709	Centers for the Handicapped	Custodial services for Parking District (meter shop and Silver Spring office)
DPWT	\$311,779	ARC of Montgomery County	Custodial services for two libraries, the PSTA, and parts of the MCCF
Montgomery County Public Libraries (MCPL)	\$186,283	Community Services for Autistic Adults and Children	Book sorting

Source: Office of Procurement

While compiling information about AP 1-10 contracts, OLO learned about two other contracts the County Government awarded – one as a “mini-contract” (defined as an award under \$25,000) and one as a non-competitive award – to organizations that provide supportive employment services for persons with disabilities. The County Government does not maintain a comprehensive list of such contracts. The two that OLO identified are:

- A \$24,997 contract with the ARC of Montgomery County awarded by DPWT for the distribution of Ride-On bus schedules; and
- A \$15,000 contract with MCPS for lawn maintenance on behalf of DPWT by MCPS special education students who receive mental health services. DHHS monitors this contract.

3. Feedback on AP 1-10 in Practice

Several themes emerged from OLO’s conversations with staff in the Office of Procurement, DPWT, DHHS, and MCPL regarding AP 1-10.

Current practices do not strictly adhere to the process outlined in AP 1-10. The CAO does not currently solicit information on an annual basis on services that departments would like to provide through AP 1-10 contracts and does not request reports on an annual report of departments’ use of AP 1-10.

Bid practices also differ from the process detailed in AP 1-10. DPWT issued invitations for bid (IFBs) rather than RFPs for its two current AP 1-10 contracts. Under the IFB process, price is the primary consideration in making an award, which conflicts with the AP 1-10 requirement that “points allocated to price may not exceed the points allocated to any other individual selection criteria.”

Satisfaction with AP 1-10 contract services varies. OLO solicited feedback from County Government staff that monitor AP 1-10 contracts. Some staff reported satisfaction with the services received. One staff member reported that the service provided under the AP 1-10 contract would be difficult to complete without the contract.

Other staff reported previous or ongoing challenges with the quality of services received under an AP 1-10 contract. One staff member reported that additional work by other individuals is sometimes required to meet appropriate standards for the work performed. Staff also reported that some past contracts were terminated because of supervision and service quality problems that could not be resolved.

Some contract monitoring staff reported that these contracts let departments provide employment opportunities to persons with disabilities while receiving a necessary service, and viewed this as an important function of AP 1-10 contracts. These staff simultaneously acknowledged that AP 1-10 contracts sometimes require an extra level of monitoring when compared to other contracts for similar services.

CHAPTER VIII. Related Issues

This chapter identifies two issues that are related to the County Government's employment of persons with disabilities, but outside the immediate scope of OLO's assignment.

- **Section A, Special Hiring Authority for Merit System Jobs**, describes past efforts to create a special hiring authority within the County Government's merit system to hire persons with disabilities.
- **Section B, County Programs to Promote the Hiring of Persons with Disabilities in the Private Sector**, describes County Government efforts to support employment opportunities for persons with disabilities in the private sector.

A. SPECIAL HIRING AUTHORITY FOR MERIT SYSTEM JOBS

In the course of conducting research for this project, a recurrent question raised by those interviewed was whether the County Government could develop a special hiring authority to hire persons with disabilities into merit system positions. Reference was made to the federal government's Schedule A hiring authority as an example of a special hiring authority. (See page 26 for a description of how the federal government's Schedule A hiring authority works.)

This section briefly reviews the history of advocacy for this idea and describes the legal issues related to establishing a special hiring authority in the County Government for hiring persons with disabilities.

1. History of Advocacy for a Special Hiring Authority

In July 1994, Montgomery County's Commission on People with Disabilities proposed to the County Executive that the County Government establish a special hiring authority "to increase disabilities (sic) community representation in the County work force and make the County a model for local jurisdictions in the employment of persons with disabilities."¹⁸⁷ Then County Executive Neal Potter supported the proposal and recommended legislation be drafted to establish a special hiring authority.¹⁸⁸

A memorandum from an Assistant County Attorney, written in July 1994, references the meeting between Commission members and the County Executive. This memorandum also notes that that the Commission had advocated creation of a special hiring authority "for years."¹⁸⁹ (See Appendix O for a copy of this memorandum.)

¹⁸⁷ Memorandum from Steven Gilbert, Assistant County Attorney, to Jane Lawton, Special Assistant to the County Executive, at 2 (July 21, 1994) [hereinafter "1994 Gilbert Memo"].

¹⁸⁸ Ibid.

¹⁸⁹ Ibid. at 1.

The Assistant County Attorney analyzed the Commission's proposal and concluded, based on language in § 401 of the Montgomery County Charter, that "[i]n order, then, for the County Council to be authorized to establish a program for hiring persons, such as persons with severe disabilities, on a basis other than merit . . . the Charter must be amended" because "Section 401 in its present form clearly mandates use of the merit system and merit system principles in all employee recruitment and selection" ¹⁹⁰ This conclusion was based on Charter language that required that "personnel actions," including hiring, be "based on demonstrated merit and fitness." ¹⁹¹

The Assistant County Attorney proposed adding the following language to the County Charter "if the Council and Executive are in agreement that establishment of a special hiring authority is good government policy for Montgomery County": ¹⁹²

The Council may establish by legislation a special hiring authority to permit the recruitment, selection, and hiring of persons with disabilities in the County work force, with personnel actions based on factors other than merit system principles. ¹⁹³

In an October 1997 memorandum, a former Chair of the Commission on People with Disabilities recounted the 1994 events surrounding the Commission's advocacy for a special hiring authority. He noted that "[a]ll efforts [by the Commission] were subsequently abandoned" "when the County Attorney determined that an amendment to the county charter would be necessary" ¹⁹⁴

2. Current Legal Opinion of the Office of the County Attorney

At the request of OLO, the Office of the County Attorney reviewed the July 1994 Memorandum and its legal conclusion that a Charter amendment would be required to allow the Council to establish a special hiring authority in Montgomery County Government for persons with disabilities. In February 2008, the Office of the County Attorney informed OLO that, even though the language in Charter § 401 has been amended since 1994, the legal conclusion in the memorandum is still valid.

¹⁹⁰ *Ibid.* at 4.

¹⁹¹ *Ibid.* at 3.

¹⁹² *Ibid.* at 4.

¹⁹³ *Ibid.*

¹⁹⁴ Memorandum from Kermit Mohn to Arlene Shapiro Wiseth, Chair, Employment Committee of the Commission on People with Disabilities, at 1 (October 14, 1997).

B. COUNTY PROGRAMS TO PROMOTE THE HIRING OF PERSONS WITH DISABILITIES IN THE PRIVATE SECTOR

In addition to the direct hiring of persons with disabilities, the County Government funds several programs designed to help persons with disabilities find employment in the private sector. While an evaluation of these efforts was outside the scope of OLO's immediate assignment, this section highlights the County's current investments in this area.

MontgomeryWorks. MontgomeryWorks provides workforce services to Montgomery County residents at three "one-stop" workforce centers in the County – located in Gaithersburg, Wheaton, and in the Montgomery County Correctional Facility. The Department of Economic Development reports that these centers, funded by a combination of federal and County dollars, serve over 10,000 job seekers and employers every year.

The Department of Economic Development manages contracts with several organizations to provide services delivered through the workforce centers. Two of these providers – TransCen, Inc. and St. Luke's House, Inc. – provide services for persons with disabilities in the workforce centers.

The workforce centers include staff designated as disability program "navigators." The job of the navigators is to work with staff, partners, and businesses to provide accessible employment and training services. Workforce center services include providing job readiness workshops and training; hosting job fairs; providing customized training programs; and providing programs for veterans and youth.

Funding of Employment Opportunities for Persons with Disabilities. The County Government also funds supported employment opportunities for persons with developmental disabilities through contracts with non-profit service providers who serve developmentally disabled individuals. In FY08, approximately \$1.1 million in the Department of Health and Human Services' budget is designated for supported employment services. In addition, the County Government funds three contracts totaling \$125,000 to provide services to developmentally disabled individuals who do not receive services through the non-profit service providers.

CHAPTER IX. Findings

Research consistently shows that a lower percent of persons with disabilities are employed compared to persons without disabilities. In 2006, according to the American Community Survey, 54% of persons with a disability living in Montgomery County were employed; this compared to an employment rate of 79% for residents with no disability.

The set of employment barriers faced by persons with disabilities includes employers' presumptions about persons with disabilities as well as the personal circumstances of the job seekers. There are provisions in Federal, State, and County law explicitly designed to protect persons with disabilities from workplace discrimination – including discrimination in the hiring process.

In 2006, data from the American Community Survey indicated that approximately 10% (83,600) of Montgomery County residents reported having one or more disabilities. Of these individuals: 10% were between five and 15 years old; 50% were between 16 and 64 years old; and 40% were 65 years old and older.

Based on an interest in learning more about the laws and practices related to the hiring of persons with disabilities in general and the County Government's own efforts as an employer in this area, the Council assigned the Office of Legislative Oversight (OLO) a project to:

- Identify barriers to employment for persons with disabilities;
- Compile a summary of strategies other jurisdictions use to overcome these barriers;
- Summarize federal, state, and local laws meant to prevent discrimination against persons with disabilities in the hiring process; and
- Describe and evaluate the County Government's policies and practices for hiring persons with disabilities.

This chapter presents OLO's findings organized into two parts:

Part A contains six findings based on OLO's review of the literature on hiring persons with disabilities and the practices of other jurisdictions;

Part B contains nine findings specific to Montgomery County Government's laws and practices related to hiring persons with disabilities.

A. GENERAL RESEARCH AND COMPARATIVE FINDINGS

Finding #1: Reported unemployment rates for persons with disabilities consistently evidence a higher rate of unemployment compared to persons without a disability.

The U.S. Census Bureau's American Community Survey data on employment and unemployment rates in 2006 *for the total working age population* (which includes persons with and without disabilities), show that:

- 46% of Montgomery County residents with one or more disabilities were not employed. This compared to 63% in the United States and 57% in Maryland.
- Persons without disabilities had a lower unemployment rate in 2006 than persons with disabilities. Nationwide, the gap was 38 percentage points; in Montgomery County, the gap was 25 percentage points.

Finding #2: Studies on the economic impact of hiring persons with disabilities find that employees with and without disabilities have comparable performance, longevity rates, and absenteeism rates.

In 2007, researchers from DePaul University evaluated the economic impact of hiring persons with disabilities in private sector employment in the Chicago area. The study found that:

- Employees with and without disabilities had similar absenteeism rates;
- Employees with and without disabilities had nearly identical job performance ratings; and
- Employees with disabilities remained on the job, on average, 5% longer than employees without disabilities.

A law review article on the economics of providing accommodations to persons with disabilities cited several studies which had found that providing reasonable accommodations provides positive benefits to employers.¹⁹⁵ In particular, the studies found that compared to workers without a disability, workers with a disability who received accommodations had lower job turnover rates and equivalent or lower absenteeism rates.

¹⁹⁵ See Stein, M. A., "The Law and Economics of Disability Accommodations," 53 *Duke Law Journal* 79, 104 (2003).

Finding #3: The cost of a providing a reasonable accommodation to an employee with a disability averages less than \$500.

Numerous studies published in recent years indicate that a reasonable accommodation for an employee with a disability costs, on average, less than \$500. A 2007 study by DePaul University found that the average cost of a reasonable accommodation was \$313 and that 37% of accommodations had no out-of-pocket costs, e.g., flexible scheduling, job restructuring.

Another study of employers who had used the U.S. Department of Labor's Job Accommodation Network between 2004 and 2006 reported that 46% of accommodations for employees and job applicants with disabilities had no out-of-pocket costs. This study also found that 45% of reasonable accommodations involved a one-time cost; 7% included an ongoing cost; and 2% required a one-time cost and an ongoing cost.

Finding #4: Persons with disabilities face many barriers to employment that prevent them from getting jobs.

Research literature documents that persons with disabilities often confront barriers to employment that include employers' presumptions about persons with disabilities, job structure, and the job seeker's personal circumstances.

The U.S. Equal Employment Opportunity Commission summarizes the employment barriers faced by persons with disabilities as follows:

Some [people with disabilities] face physical barriers that make it difficult to get into and around a work site or to use necessary work equipment. Some are excluded or limited by the way people communicate with each other. Others are excluded because of rigid work schedules that allow no flexibility for people with special needs caused by disability. Many are excluded only by barriers in other people's minds; these include unfounded fears, stereotypes, presumptions, and misconceptions about job performance, safety, absenteeism, costs, or acceptance by co-workers and customers.¹⁹⁶

Finding #5: Some employers have implemented strategies explicitly designed to break down common employment barriers for persons with disabilities.

A comparative review of practices implemented by other jurisdictions identified six recurring strategies that employers are using as part of a concerted effort to break down employment barriers for persons with disabilities:

¹⁹⁶ *Technical Assistance Manual: Title I of the ADA*, U.S. Equal Employment Opportunity Commission § 3.2 (January 1992).

- Developing leadership and top management commitment to hiring persons with disabilities;
- Training and educating managers and other staff on hiring and working with persons with disabilities;
- Targeting recruitment efforts to increase the number of applicants with disabilities;
- Improving accessibility in the recruitment and hiring process;
- Improving access to reasonable accommodations; and
- Providing opportunities for persons with disabilities to gain job experience.

Surveys of supervisors in federal government agencies report that visible top management commitment to hiring persons with disabilities is particularly effective in addressing barriers to hiring persons with disabilities.

Finding #6: Examples of programs and practices targeted to increase the hiring of persons with disabilities can be found in the federal government as well as in some state and local governments.

The Federal Government, the State of Maryland, and some other state and local governments have implemented numerous programs and policies aimed at increasing the hiring of persons with disabilities. For example:

- **Federal Government:** Federal law authorizes federal agencies to directly hire an applicant with a disability into a vacant position on a non-competitive basis. The Federal Government also has developed comprehensive standards for designing websites that allow persons with disabilities to access content using assistive technology.
- **State of Maryland:** The Maryland Department of Budget and Management and the Division of Rehabilitation Services operate the QUEST (Quality, Understanding, Excellence, Success and Training) program, which provides 12-week long, stipend-paid internships in the State Government for persons with disabilities. The State also developed an alternative process to add applicants with disabilities to the list of candidates eligible for a State job if a reasonable accommodation cannot provide a fair and equal opportunity for the applicant to take required employment tests.
- **Miami-Dade County, Florida:** Miami-Dade County developed a reasonable accommodation manual that addresses issues surrounding how to request, evaluate requests for, fund, and provide reasonable accommodations.
- **City of Chicago, Illinois:** The Mayor of Chicago established a taskforce to identify opportunities to improve public and private sector employment for persons with disabilities in Chicago. The City Government has implemented a number of strategies as a result of the task force recommendations, including a mandatory three-hour training for managers on employing persons with disabilities.
- **King County, Washington:** King County collects and tracks data on the number of employees with disabilities in the County government and requires County departments to develop plans to increase hiring, retention, and promotion of persons with disabilities.

B. MONTGOMERY COUNTY GOVERNMENT’S LAWS AND PRACTICES

Finding #7: Federal, State, and County law prohibit the County Government from discriminating against persons with disabilities in the hiring process.

The following laws and regulations expressly prohibit the County Government from discriminating against persons with disabilities in all employment decisions, including the recruitment and hiring process:

- Federal Americans with Disabilities Act (ADA);
- Maryland Fair Employment Practices Act;
- Montgomery County Code, Chapter 27, Human Relations and Civil Liberties; and
- Montgomery County Personnel Regulations.

The ADA also requires the County Government to provide reasonable accommodations, when requested, to all qualified individuals with disabilities who can perform the essential functions of a job.

Finding #8: The County Government does not track the number of persons with disabilities in the County Government workforce.

The County Government does not ask job applicants whether they have a disability. The County Government does collect disability-related information from all job applicants with conditional offers of employment, but does not compile this information for tracking purposes.

Under the ADA, before making a job offer, an employer can ask job applicants to voluntarily self-identify as persons with disabilities only if the employer has an affirmative action program for persons with disabilities or uses the information to benefit persons with disabilities. Office of Human Resources staff report that the County also does not collect disability information about job applicants for statistical use because:

- Asking job applicants to disclose whether they have a “disability” would produce inaccurate data because individuals do not use the term “disability” consistently and may use the term in a manner that is inconsistent with the definition in the ADA;
- Persons with disabilities often are reluctant to disclose information about their disability when applying for jobs for fear of discrimination; and
- While the federal government mandates that employers collect demographic information about job applicants’ race and gender, collecting similar information about disability status is not mandated by federal law or regulation.

Finding #9: The County Government funds a number of programs designed to help persons with disabilities find employment in the private sector.

The focus of this OLO study was on the County Government's efforts, as an employer, to hire persons with disabilities. While beyond the scope of the assignment, it is relevant to note that, over the years, the County Government has made regular investments in programs designed to assist persons with disabilities find employment in the private sector.

Programs are funded both in the County Government's Department of Economic Development and the Department of Health and Human Services. Specifically:

MontgomeryWorks provides workforce services to Montgomery County residents at three "one-stop" workforce centers in the County. Services include: job readiness workshops and training; job fairs; and customized training programs. The workforce centers include staff designated as disability program "navigators," who work with staff, partners, and businesses to provide accessible employment and training services for persons with disabilities.

Supportive Employment Programs. In FY08, approximately \$1.1 million in the Department of Health and Human Services' budget is designated for supported employment services for persons with disabilities, provided by non-profit organizations under contract with the County. In addition, the County Government funds three contracts totaling \$125,000 to provide employment-related services to developmentally disabled individuals who do not receive services through the non-profit service providers.

Finding #10: The County Government addresses the hiring of persons with disabilities in several parts of the merit system hiring process.

The County Government's Office of Human Resources' (OHR) efforts to address the hiring of persons with disabilities in the different parts of the merit system hiring process are summarized below.

Developing Job Announcements. OHR's Recruitment and Staffing Team works with County Government departments to develop job announcements, which list the essential functions of a specific position. Job announcements include both minimum qualifications (e.g., experience, education, and licensing requirements) and, based on the needs and requirements of the hiring department, preferred criteria.

Hiring department staff create an initial draft of preferred criteria for review by OHR staff. OHR staff work with hiring department staff to ensure that the final criteria do not contain requirements that would unnecessarily (or illegally) screen out qualified people, including persons with disabilities.

Recruitment. OHR staff participate in career fairs, including those targeted to persons with disabilities. OHR also works with the Employer Assistance and Recruitment Network (EARN) – an organization that provides services to employers, disability services providers, and jobseekers with disabilities – to advertise the County Government as an employer and to advertise merit system positions. In the past year, the County Government has increased its use of EARN to advertise County Government jobs to persons with disabilities.

OHR also makes computers with screen reader software available to members of the public to review and apply for County Government positions.

Interviewing Job Applicants. In 2006, OHR’s Recruitment and Staffing Team drafted *Selection Guidelines for Montgomery County: A Users Guide for Hiring Managers*, which includes information about interviewing persons with disabilities. OHR’s Training and Organizational Development team uses these *Selection Guidelines* in its “Interviewing and Hiring Employees” training, which will be mandatory for all hiring managers and all employees sitting on hiring panels beginning in FY09.

The *Selection Guidelines* include sample interview questions and evaluation criteria for applicants’ responses. The evaluation criteria in the *Selection Guidelines* for “Presentation/Communication” direct interviewers to evaluate applicants based on an applicant’s ability to communicate. The examples provided include articulation, mannerisms, gestures, eye contact, and vocal inflection – and focus on physical ways to communicate. The *Selection Guidelines* do not discuss how individual applicants’ physical abilities to communicate vary.

Providing Reasonable Accommodations for Job Applicants. The County Government provides accommodations to job applicants with disabilities who request them. On the County Government’s OHR “Career” webpage, OHR provides information for job applicants with disabilities about receiving accommodations during the hiring process. The County Government does not have further written procedures outlining the process for requesting and evaluating requests for accommodations.

The Disability Program Manager on OHR’s Occupational Medical Services (OMS) Team determines whether an applicant is a person with a disability who qualifies for reasonable accommodation under the ADA and whether an appropriate accommodation exists for a job. Under the ADA, OMS is allowed to deny a request for an accommodation if an applicant is not a qualified person with a disability under the ADA or if providing an accommodation would create an undue hardship for the County Government. The County Government has no written process for job applicants to appeal the denial of a request for an accommodation.

Between FY05 and FY07, the County Government received a total of 43 requests for accommodations – nine from job applicants and 34 from employees. For the job applicants, the County Government provided accommodations in response to seven requests and denied two requests.

Paying for Reasonable Accommodations. The County Government has a centralized fund, administered by Occupational Medical Services, that was established to assist individual County offices/departments pay for reasonable accommodations that cost more than \$500. The FY08 Office of Human Resources budget includes \$15,000 allocated for the fund. To date, OHR has done little to publicize the fund, either within County Government or on the County's website.

As of April 3, 2008, the County had spent \$344 of the \$15,000 budgeted for the fund this year. A review of the fund's use in recent years shows expenditures of \$7,297 in FY05, \$0 in FY06, and \$6,904 in FY07.

Worker Assistance Program. OHR established the Worker Assistance Program in FY06 to provide accommodations to County Government employees or applicants with a conditional job offer who are not considered "disabled" under the ADA, but who still could benefit from assistance.

In January 2006, the OHR Director sent department directors a memo describing the Worker Assistance Program and indicating a request form would be available through OMS' County intranet website. Since that time, no additional information about the program has been distributed and there are no written program guidelines that outline, for example: who qualifies, what assistance the program provides, how employees can request assistance, or criteria for evaluating requests under the program.

Finding #11: The County Government delegates responsibility to County Government departments to ensure that online information and service features on department web pages are accessible for persons with disabilities.

The County Government publishes job vacancy announcements on its website and has an online job application process. Under the federal Americans with Disabilities Act, the County must ensure that all parts of its website are accessible to persons with disabilities.

The County Government's Public Information Office (PIO) and the Department of Technology Services (DTS) share overall responsibility for the County Government's website. Individual departments are responsible for ensuring that their websites' information and services features (e.g., online job application process, online reporting of discrimination complaints) are accessible to persons with disabilities. The County offers an optional training course for staff that use the software to edit County Government web pages. As currently structured, this course does not address website accessibility.

The County Government's only formal website accessibility guidance for employees (posted on the County Government's intranet):

- States that all web information and resources must be accessible and designed for use by screen readers and other specialized software
- Provides a link to a U.S. Department of Justice publication on website accessibility; and
- Identifies individual department information technology staff as the resource for assistance with making websites accessible to persons with disabilities.

There are no other County Government internet accessibility standards or guidelines.

Most County Government web pages have a “text version” link to facilitate the use of assistive technology with the County Government’s website. OLO’s sample test of this technology in April and May 2008 found that it does not work reliably, including on the “Career” information web pages maintained by the Office of Human Resources.

Finding #12: While several County Government training courses address issues related to persons with disabilities, there is no mandatory course dedicated to the topic.

The County Government does not have a mandatory training devoted to topics related to the employment of persons with disabilities. Several County Government training courses, however, do address topics related to persons with disabilities. Three elective training courses address topics under the Americans with Disabilities Act – employment law, local government services, and serving customers with disabilities. In addition, three required County Government courses include discussion of persons with disabilities in the course or in training materials. These are:

Course Title	Mandatory for:
EEO/Diversity Management for Managers and Supervisors	All managers and supervisors
Interviewing and Selecting Employees	Beginning in FY09 – all hiring managers and all employees on interview panels
Preventing Workplace Harassment	All employees

Additionally, new County government employees view a video about interacting with persons with disabilities – *The Ten Commandments of Communicating with People with Disabilities* – at the employee orientation program.

Finding #13: In FY08, the County Government launched a new program for hiring persons with disabilities as part-time interns.

The FY08 budget, as approved by the Council, funded the Executive’s proposal to establish the Customized Employment Public Intern Project. The Project provides short-term, part-time, non-merit County Government jobs for persons with disabilities. The program includes \$50,000 for a Project Coordinator and \$100,000 for intern salaries. (The \$50K is in OHR’s budget and the \$100K is in DHHS’ budget.)

The Project Coordinator (hired under a contract) develops intern positions at the request of individual departments. Department staff work with the Project Coordinator to identify unmet tasks in a department and create a position based on those tasks. Job applicants must provide proof of a disability and must be able to perform the tasks for a particular job.

As of March 2008, the County has hired 23 interns in five departments, as follows. As of April 2008, the County has created, but not filled, three additional positions.

Department/Division	Number of Interns
Department of Health and Human Services	11
Department of Liquor Control	4
Transit Division, Dept. of Public Works and Transportation	2
Print Shop, Dept. of Public Works and Transportation	2
Office of Human Resources	3
Department of Technology Services	1
<i>Total</i>	23

Project interns are “short-term” non-merit County employees – limited to working no more than 900 hours in a 12-month period and no more than two 12-month periods. Interns earn \$7.20 per hour and do not receive benefits or accrue paid leave. Interns may work between one and 18 hours per week and work, on average, 10.5 hours per week.

Finding #14: Administrative Procedure 1-10 establishes a process for the County Government to contract for services from organizations that employ persons with disabilities. Current practices do not strictly adhere to the process outlined in the AP.

Administrative Procedure 1-10, Disability Employment Training/Services Contracting, establishes policies and procedures for the County Government to procure services through “training contracts” with agencies “engaged in providing employment training services to people with disabilities.” Under AP 1-10, as revised in 2003:

- The Chief Administrative Officer (CAO) must annually solicit and approve a list of services that departments plan to provide through AP 1-10 contracts;
- Departments may issue requests for proposals (RFPs) for services where cost can account for no more than 50% of the evaluation criteria;
- DHHS can provide consultation to departments to identify potential AP 1-10 services, help develop RFPs, and assist with vendor selection; and
- The CAO must request annual reports from departments about their use of AP 1-10.

The County Government's current practices do not strictly adhere to the processes outlined in AP 1-10. For example, in recent years, the CAO has not solicited a list of potential services or requested reports on departments' use of AP 1-10; and DHHS staff currently do little consulting with departments about the use of AP 1-10.

In FY08, the County Government has three AP 1-10 contracts – one for library book sorting and two for custodial services. The value of the three contracts over the total life of the contracts is \$532,771.

Finding #15: The County Attorney has concluded that establishing an alternative hiring process for merit system positions for persons with disabilities would require an amendment to the County Charter.

In the course of conducting this project, a recurring question raised by those interviewed was whether the County Government could develop a special hiring authority to hire persons with disabilities into merit system positions under different rules. Reference was made to the Federal Government's Schedule A hiring authority as an example of a special hiring authority.

In a July 1994 memorandum, an Assistant County Attorney concluded, based on language in § 401 of the Montgomery County Charter, that “[i]n order, then, for the County Council to be authorized to establish a program for hiring persons, such as persons with severe disabilities, on a basis other than merit . . . the Charter must be amended” because “Section 401 in its present form clearly mandates use of the merit system and merit system principles in all employee recruitment and selection” This conclusion was based on Charter language that required that “personnel actions,” including hiring, be “based on demonstrated merit and fitness.”

In February 2008, the Office of the County Attorney informed OLO that, even though the language in Charter § 401 has been amended since 1994, the legal conclusion in the memorandum is still valid.

CHAPTER X. Recommendations

This chapter outlines the Office of Legislative Oversight's recommendations for Council action. The recommendations are aimed at enhancing the County Government's policies and practices related to hiring persons with disabilities. In sum:

- Make hiring persons with disabilities a more visible County Government priority.
- Based on the information compiled in this OLO report, review the County Government's current merit system practices related to the hiring of persons with disabilities.
- Monitor the progress of the Customized Employment Public Intern Program and implementation of Administrative Procedure 1-10.
- Consider whether to pursue a Charter amendment related to the structure of the merit system hiring process.

Recommendation #1: Make hiring persons with disabilities a more visible County Government priority.

The research literature documents that persons with disabilities often confront barriers to employment that include employers' presumptions about persons with disabilities, job structure, and the job seeker's personal circumstances. The experience of other public sector employers demonstrates that a highly visible commitment from top management to hiring persons with disabilities is an effective strategy for enhancing a jurisdiction's efforts to reduce these known barriers to employment.

OLO recommends that the Council ask the Chief Administrative Officer (CAO) to raise the visibility across all County Government departments/offices on the laws, policies, and practices surrounding the County Government's hiring of persons with disabilities. Specific actions that the CAO should consider include:

- Identify a senior County Government staff member to serve as a "champion" for the County Government's employment of persons with disabilities;
- Provide more frequent and focused publicity and training on the County's policies regarding the hiring of persons with disabilities, with emphasis on the laws regarding equal treatment and resources available for providing reasonable accommodations; and
- Convene an inter-departmental task force to recommend new strategies for increasing attention across all departments and offices to the issues surrounding the hiring of persons with disabilities.

Recommendation #2: Review the County Government’s current merit system hiring practices related to the hiring of persons with disabilities.

OLO recommends that the Council ask the Chief Administrative Officer to review and consider revising a number of specific County Government merit system practices related to the hiring of persons with disabilities. The table below lists the practices identified by OLO as deserving review along with recommended revisions for the CAO to consider.

County Government Practice	Recommended Revision
County Government Interview Guidelines	
Guidelines recommend that interviewers evaluate applicants based on his/her ability to communicate – e.g., articulation, mannerisms, gestures, eye contact, and vocal inflection – and focus on physical ways to communicate.	Revise guidelines to advise interviewers that job applicants’ abilities to communicate vary and how common assumptions about “good communication skills” may disproportionately screen out persons with disabilities.
Providing Reasonable Accommodations	
The County does not have any written guidelines related to requesting, evaluating, providing, or appealing denial of a reasonable accommodation.	Establish and widely publicize written guidelines outlining all aspects (from application to appeal) of the reasonable accommodation process.
Paying for Reasonable Accommodations	
The existence of the fund established in the Office of Human Resources to helping departments pay for reasonable accommodations that cost more than \$500 is not well publicized.	Widely publicize the availability of the central fund (in OHR) to pay for reasonable accommodations.
Worker Assistance Program	
There are no written guidelines for the Worker Assistance Program, which was established in FY06 to provide accommodations to employees or job applicants with a conditional job offer who are not considered “disabled” under the ADA, but who still could benefit from assistance.	Develop written guidelines for the Worker Assistance Program and publicize the program to County Government employees and job applicants.
Website Accessibility	
The County has no written standards or guidelines for ensuring that the County Government’s website is accessible for persons with disabilities.	Conduct a review of the County Government’s website for compliance with the ADA’s mandate of accessibility for persons with disabilities. Develop written guidelines to inform departments’ efforts to develop accessible information and online services.
Employee Training	
While various County trainings address hiring persons with disabilities, there is no mandatory training specifically dedicated to the topic.	Develop a mandatory training course for County Government managers that specifically focuses on hiring persons with disabilities. The training should address common barriers to employment for persons with disabilities and how County departments can break down those barriers.

Recommendation #3: Monitor the progress of the Customized Employment Public Intern Program and request an Executive Branch review of Administrative Procedure 1-10.

The County Government currently operates two programs (outside the merit system) that provide employment opportunities for persons with disabilities – the Customized Employment Public Intern Program and procurement under Administrative Procedure 1-10 Disability Employment Training/Services Contracting.

Customized Employment Public Intern Program. This program was launched in FY08, and it is premature to evaluate its success. For the next several years, OLO recommends that the Council request an annual update from the CAO on the implementation of the intern program, in order to monitor the program’s progress and results.

Administrative Procedure 1-10. In the course of this report, OLO learned that implementation of the AP 1-10 in practice does not strictly adhere to the process outlined in the AP. OLO recommends the Council ask the CAO to review AP 1-10 with the desired goal of better aligning the written requirements and current practice.

Recommendation #4: Discuss and decide whether to pursue a Charter amendment related to the structure of the merit system hiring process.

During the course of conducting this study, a recurring question raised by persons interviewed was, “Why doesn’t the County Government develop a special hiring authority to hire persons with disabilities into merit system jobs?” The model most often suggested for the County Government to follow is the Federal Government’s Schedule A hiring program, which allows federal agencies to directly hire a person with a disability into a vacant position on a non-competitive basis. The County Attorney advises that creating this sort of program requires an amendment to the County’s Charter. See Appendix O.

Even with the Schedule A authority in place, the percent of Federal jobs filled by persons with disabilities decreased from 1.6% in 1997 to 0.94% in 2006. According to the U.S. Equal Employment Opportunity Commission, factors that explain this decrease include: a lack of coordination among the multiple federal agencies that share responsibility for increasing employment of persons with disabilities; a cumbersome job application process; a lack of knowledge about reasonable accommodations; and continued stereotypes about problems related to hiring persons with disabilities.

OLO recommends that the Council explicitly discuss and decide whether to pursue a Charter amendment to enable the County Government to establish a special hiring authority for persons with disabilities. Specific questions for the Council to explore include:

- As a matter of public policy, does the Council want to establish the precedent of creating a special hiring authority for one particular cohort of persons?
- What sorts of results would the Council expect from implementing a special hiring authority for persons with disabilities?
- Would the factors cited for the decline in Federal government hiring of persons with disabilities similarly hinder the success of a special hiring authority in the County Government?

CHAPTER XI. Agency Comments on Final Draft

The Office of Legislative Oversight circulated a final draft of this report to the Chief Administrative Officer for Montgomery County, the Office of Human Resources, the Department of Health and Human Services, the Office of Procurement, the Office of the County Attorney, the Office of Public Information, the Department of Economic Development, the Department of Correction and Rehabilitation, the Department of Public Works and Transportation, and Montgomery County Public Libraries. OLO appreciates the time taken by agency representatives to review the draft and provide comments. OLO's final report incorporates technical corrections provided by agency staff.

The written comments received from the CAO are attached in their entirety and begin on the following page.



OFFICES OF THE COUNTY EXECUTIVE

Isiah Leggett
County Executive

Timothy L. Firestine
Chief Administrative Officer

MEMORANDUM

June 5, 2008

TO: Leslie Rubin, Legislative Analyst
Jennifer Renkema, Research Associate
Office of Legislative Oversight

FROM: Timothy L. Firestine 
Chief Administrative Officer

SUBJECT: DRAFT Office of Legislative Oversight Report 2008-9
Hiring Persons with Disabilities: A Review of County Government Practices

Thank you for the opportunity to review the above referenced report. We commend the Office of Legislative Oversight (OLO) for conducting a comprehensive review of County government practices regarding the hiring of persons with disabilities. OLO's faithfulness to its customary practice of including all stakeholders in the review process is especially appreciated and has helped produce a report with accurate findings and useful recommendations for consideration. We have provided some technical comments regarding OLO's findings directly to Legislative Analyst Leslie Rubin. In this memorandum, we offer initial comments on OLO's recommendations.

We look forward to participating in a more thorough discussion of the report with the Management and Fiscal Policy Committee on June 23, 2008.

Recommendation #1: Make hiring persons with disabilities a more visible County Government priority.

OLO recommended that the Council ask the CAO to raise the visibility of the laws, policies, and practices relating to the hiring of persons with disabilities "across all departments/offices". We share the Council's desire to enhance job opportunities for persons with disabilities in County government and look forward to exploring ways to make that commitment a more visible priority.

Leslie Rubin
Jennifer Renkema
June 5, 2008
Page 2

Recommendation #2: Review the County Government's current merit system hiring practices related to the hiring of persons with disabilities.

County Government Interview Guidelines

OLO noted that the County's current interview guidelines recommend that interviewers evaluate applications based on ability to communicate (e.g., articulation, mannerisms, gestures, eye contact, and vocal inflection). OLO recommends that the County revise its guidelines to reflect that common assumptions about good communication skills may disproportionately screen out persons with disabilities. We agree with OLO's recommendation and the Office of Human Resources (OHR) will review the applicable guidelines and make appropriate amendments.

Providing Reasonable Accommodation

OLO noted that the County does not have any written guidelines related to requesting, evaluating, providing, or appealing the denial of a request for reasonable accommodation. OLO recommended that the County establish and widely publicize written guidelines outlining all aspects of the reasonable accommodation process. We agree with OLO's recommendation and OHR will develop an information packet that provides a clear and comprehensive resource on the reasonable accommodation process.

Paying for Reasonable Accommodation

OLO noted that OHR manages a fund that provides resources to departments and offices to help pay for the costs of reasonable accommodations that exceed \$500. OLO recommended that the County publicize the existence of that fund more widely. We agree with OLO's recommendation and OHR will include information about the fund in the new information packet on the reasonable accommodation process, in ADA related training sessions, and on the OHR website.

Worker Assistance Program

OLO noted that there are no written guidelines for the Worker Assistance Program which was established in FY06 to provide accommodations to employees or job applicants with a conditional job offer who are not considered disabled under the ADA but who still could benefit from assistance. OLO recommended that the County develop written guidelines for the Worker Assistance Program and inform County employees and job applicants about the program. We agree with OLO's recommendation and OHR will include information about the

Leslie Rubin
Jennifer Renkema
June 5, 2008
Page 3

Worker Assistance Program in the new information packet about the reasonable accommodation process, in ADA related training sessions, and on the OHR website.

Website Accessibility

OLO noted that the County has no written standards or guidelines for ensuring that the County's website is accessible to persons with disabilities. OLO recommended that the County review its website to determine compliance with the ADA and develop written guidelines to assist departments and offices in providing accessible online services. We agree with OLO's recommendation and the Public Information Office and Department of Technology Services will work together to address this issue.

Employee Training

OLO noted that various County training programs address hiring persons with disabilities but that there is no mandatory training specifically dedicated to this topic. OLO recommended that the County develop a mandatory training course for managers that specifically focuses on hiring persons with disabilities and addresses how the County can break down common barriers to employment for persons with disabilities. OHR will explore the possibility of establishing a mandatory training for managers and supervisors on the topic of hiring persons with disabilities, in addition to the current Title I (public accommodations) and Title II (employment) training curriculum. OHR staff will remain available for customized training and training by request as it relates to the ADA, reasonable accommodations, and supervisory obligations under the ADA.

Recommendation #3: Monitor the progress of the Customized Employment Public Intern Program and request an Executive Branch review of Administrative Procedure 1-10.

OLO noted that the County Executive launched the Customized Employment Public Intern Program (CEPIP) in FY08 and recommended that the CAO update the Council on the implementation of this program on an annual basis. The purpose of the CEPIP is to provide short-term, part-time, non-merit County Government jobs for persons with disabilities. We are excited about this program and look forward to updating the Council on its implementation. OLO also noted that the County's current practice regarding contracts with entities that provide vocational training to persons with disabilities does not strictly adhere to the guidelines outlined in Administrative Procedure 1-10 (AP 1-10). OLO recommended that the CAO review AP 1-10 with the goal of better aligning the written guidelines with current practice. We agree with OLO and will undertake the necessary review of AP 1-10 and current practice.

Leslie Rubin
Jennifer Renkema
June 5, 2008
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cc: Kathleen Boucher, Assistant Chief Administrative Officer
Joe Adler, Director, Office of Human Resources
Uma Ahluwalia, Director, Department of Health and Human Services
David Dise, Director, Office of Procurement
Leon Rodriguez, County Attorney
Patrick Lacefield, Director, Office of Public Information
Dr. Pradeep Ganguly, Director, Department of Economic Development
Arthur Wallenstein, Director, Department of Correction and Rehabilitation
Arthur Holmes, Director, Department of Public Works and Transportation
Parker Hamilton, Director, Montgomery County Public Libraries
Steven Emanuel, Director, Department of Technology Services

APPENDICES ATTACHED TO REPORT

Appendix	Title	Circle Number
Federal		
A	Section 508 Website Accessibility Standards	A1
Miami-Dade County, Florida		
B	Outreach Intern Program Host Department Kit	B1
C	Essential Job Functions Form	C1
City of Chicago		
D	Reasonable Accommodation Policy	D1
King County, Washington		
E	Affirmative Action Form	E1
Montgomery County, Maryland		
F	Accessibility of State and Local Government Websites for People with Disabilities (U.S. Department of Justice)	F1
G	EARNworks Montgomery County Flyer	G1
H	EARNworks Montgomery County Promotional Material	H1
I	Occupational Medical Services Medical History Form	I1
J	Employee Reasonable Accommodation Request Form	J1
K	Worker-Assistance Request Form	K1
L	Review of the Functionality of the "Text Version" Link on the County Government's Website	L1
M	Customized Employment Public Intern Class Specification (County Government Assistant)	M1
N	Customized Employment Public Intern Project <ul style="list-style-type: none"> • Application Procedures, • Informational Intake Form, and • Sample Task Lists 	N1
N1	Letters from the Commission on People with Disabilities and the County Executive	N1-1
O	Memorandum from Steven Gilbert, Assistant County Attorney, to Jane Lawton, Special Assistant to the County Executive (July 21, 1994)	O1

APPENDICES AVAILABLE ONLINE (at www.montgomerycountymd.gov/olo)

Appendix	Title	Document Number
Federal		
P	U.S. EEOC <i>ADA Technical Assistance Manual</i> (1992)	1
Q	U.S. EEOC <i>ADA Enforcement Guidance: Preemployment Disability-Related Questions and Medical Examinations</i> (1995)	2
State of Maryland		
R	Non-Visual Accessibility Checklist for Web Sites	3
Miami-Dade County, Florida		
S	<i>Americans with Disabilities Act Reasonable Accommodation Countywide Procedures Manual</i>	4
City of Chicago		
T	<i>Reasonable Accommodation Procedures for Employees and Applicants with Disabilities</i>	5
U	Illinois Information Technology Accessibility Act Implementation Guidelines for Web-Based Information and Applications 1.0	6

Appendix A

Section 508 Website Accessibility Standards

§ 1194.22 Web-based intranet and internet information and applications.

- (a) A text equivalent for every non-text element shall be provided (e.g., via "alt", "longdesc", or in element content).
- (b) Equivalent alternatives for any multimedia presentation shall be synchronized with the presentation.
- (c) Web pages shall be designed so that all information conveyed with color is also available without color, for example from context or markup.
- (d) Documents shall be organized so they are readable without requiring an associated style sheet.
- (e) Redundant text links shall be provided for each active region of a server-side image map.
- (f) Client-side image maps shall be provided instead of server-side image maps except where the regions cannot be defined with an available geometric shape.
- (g) Row and column headers shall be identified for data tables.
- (h) Markup shall be used to associate data cells and header cells for data tables that have two or more logical levels of row or column headers.
- (i) Frames shall be titled with text that facilitates frame identification and navigation.
- (j) Pages shall be designed to avoid causing the screen to flicker with a frequency greater than 2 Hz and lower than 55 Hz.
- (k) A text-only page, with equivalent information or functionality, shall be provided to make a web site comply with the provisions of this part, when compliance cannot be accomplished in any other way. The content of the text-only page shall be updated whenever the primary page changes.
- (l) When pages utilize scripting languages to display content, or to create interface elements, the information provided by the script shall be identified with functional text that can be read by assistive technology.
- (m) When a web page requires that an applet, plug-in or other application be present on the client system to interpret page content, the page must provide a link to a plug-in or applet that complies with §1194.21(a) through (l).
- (n) When electronic forms are designed to be completed on-line, the form shall allow people using assistive technology to access the information, field elements, and functionality required for completion and submission of the form, including all directions and cues.

Appendix A

(o) A method shall be provided that permits users to skip repetitive navigation links.

(p) When a timed response is required, the user shall be alerted and given sufficient time to indicate more time is required.

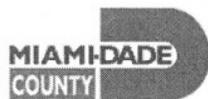
Note to §1194.22:

1. The Board interprets paragraphs (a) through (k) of this section as consistent with the following priority 1 Checkpoints of the Web Content Accessibility Guidelines 1.0 (WCAG 1.0) (May 5, 1999) published by the Web Accessibility Initiative of the World Wide Web Consortium:

Section 1194.22 Paragraph	WCAG 1.0 Checkpoint
(a)	1.1
(b)	1.4
(c)	2.1
(d)	6.1
(e)	1.2
(f)	9.1
(g)	5.1
(h)	5.2
(i)	12.1
(j)	7.1
(k)	11.4

2. Paragraphs (l), (m), (n), (o), and (p) of this section are different from WCAG 1.0. Web pages that conform to WCAG 1.0, level A (i.e., all priority 1 checkpoints) must also meet paragraphs (l), (m), (n), (o), and (p) of this section to comply with this section. WCAG 1.0 is available at <http://www.w3.org/TR/1999/WAI-WEBCONTENT-19990505>.

Source: <http://www.section508.gov/index.cfm?FuseAction=content&ID=12#Web>



Outreach Intern Program
An Internship Program for Individuals with Disabilities

Host Department Kit

6/8/07

Memorandum



Date: April 6, 2005

To: Department Directors

From: 
Donald S. Allen, Director
Employee Relations Department

Subject: Outreach Intern Program Host Departments

As you may know, Miami-Dade County is implementing a new internship program for individuals with disabilities. The "Outreach Intern Program" is designed to provide disabled individuals with meaningful County work experience and expose departments to an untapped pool of highly qualified, reliable workers. Outreach Interns will rotate through County departments over a one-year period, and we are asking your department to serve as a host site.

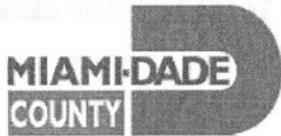
Salaries and benefits for the Outreach Interns are funded by the program. Host departments provide participants with a supervisor to monitor and advise the intern, a place to work, and basic office equipment and supplies. The Employee Relations Department provides administration of the program, including selection, training, coaching, and counseling.

For the first year, the County will hire two administrative-level and two clerical-level interns. Each of the Outreach Administrative Interns will possess a bachelor's degree and be capable of entry-level professional work. The Outreach Clerical Interns will possess prior clerical experience and be capable of performing advanced clerical work.

We have already conducted a highly selective hiring process, and we have some very talented individuals who will soon be ready for their departmental assignments. I know you share my commitment to providing opportunities for qualified individuals with disabilities, and I look forward to your cooperation with this exciting new program.

If your department would like to host an intern, please contact Ms. Connie Butler of the Employee Relations Department at (305) 375-2473 or by e-mail at bco@miamidade.gov. The support of all County departments is critical to the success of the program, and I sincerely appreciate your assistance.

cc: Honorable Carlos Alvarez, Mayor
Honorable Chairman Joe A. Martinez and Members,
Board of County Commissioners
George M. Burgess, County Manager
Assistant County Managers
ERD Senior Staff
Departmental Personnel Representatives
Department ADA Coordinators



2007 Outreach Intern Program Host Department Request Form

Thank you for your interest in participating as a host department for Miami-Dade County's internship program for individuals with disabilities. The "Outreach Intern Program" is designed to provide disabled individuals with meaningful County work experience and expose departments to an untapped pool of highly qualified, reliable workers. Outreach Interns rotate through County departments over a one-year period.

Salaries and benefits for the Outreach Interns are funded by the program. Host departments provide participants with a supervisor to monitor and advise the intern, a place to work, and basic office equipment and supplies. The Employee Relations Department provides administration of the program, including selection, training, coaching, and counseling.

Contact Person: _____ Date _____

Department: _____

Phone: _____ E-Mail: _____

The program has administrative/professional-level interns and clerical-level interns. Please indicate which level intern your department is interested in hosting:

- Administrative/professional-level
- Clerical-level
- Either professional-level or clerical-level

Please briefly describe the duties you would like the intern to perform in your department:

Although most individuals with disabilities are able to successfully perform office-related duties, we understand that some positions may have unique physical requirements that are job related and because of business necessity. If you think the intern opportunity in your department may present an obstacle for certain disabilities, please share your concerns with us.

Please send this completed form to Mr. Bill Collins of the Employee Relations Department by e-mail at cow@miamidade.gov or by fax at (305) 375-3063.



Outreach Intern Program

An Internship Program for Individuals with Disabilities

PURPOSE:

Miami-Dade County has long been committed to providing equal access and opportunity for applicants with disabilities. To further our commitment and set a progressive example for local organizations and businesses, Miami-Dade County has established the Outreach Intern Program.

SUMMARY:

The Outreach Intern Program provides internship opportunities for individuals with disabilities. Department Directors are expected to cooperate with efforts to create internship opportunities within their departments.

Although the type of work experience will vary based on department needs and participant qualifications, all participants can expect the following benefits:

- ✓ An opportunity to learn about careers, interests, values, and abilities;
- ✓ Meaningful work experience;
- ✓ An opportunity for networking;
- ✓ Potential work-related references;
- ✓ An opportunity to develop marketable skills; and
- ✓ The potential for future employment with the County.

The Employee Relations Department will administer and oversee the program.

LEGAL:

The County Attorney's Office has advised that an internship program exclusively for individuals with disabilities is permissible under existing laws. The Employee Relations Department seeks legal advice from the County Attorney's Office at each stage of the implementation process.

MINIMUM ELIGIBILITY REQUIREMENTS:

- ✓ Outreach Clerical Interns must possess a High School diploma or GED.
- ✓ Outreach Administrative Interns must possess a Bachelor's Degree.
- ✓ Must comply with all County pre-employment requirements, including the Miami-Dade County Residency Ordinance.
- ✓ Additional eligibility requirements may be added for specific assignments.
- ✓ Applicants must have a disability to be eligible. Disability is defined as "a physical or mental impairment that substantially limits one or more major life activities."

STATUS AND COMPENSATION:

The Office of Strategic Business Management has established a special fund to pay the salaries and benefits of the Outreach Interns. Outreach Interns work a full-time schedule (80 hours biweekly) for a one year period. For payroll purposes, Outreach Interns are classified as AC (exempt) in the County system. Outreach Administrative Interns are paid at the entry-level Administrative Officer 1 pay rate. Outreach Clerical Interns are paid at the entry-level Clerk 2 pay rate. Benefits are provided in accordance with County policies and procedures.

NUMBER OF PARTICIPANTS:

It is expected that two (2) Administrative and two (2) Outreach Clerical Interns will be selected in 2007.

RECRUITMENT PANEL:

A Recruitment Panel is used to select participants. The panel composition includes representatives from the Employee Relations Department, the Office of ADA Coordination, and the Commission on Disability Issues.

APPLICATION PROCESS:

Program requirements are advertised locally and resumes are received and processed by the Employee Relations Department. Specific requirements for application submittal are included in the position advertisement. The Recruitment Panel may change or add application items as needed.

SELECTION CRITERIA:

The Recruitment Panel will determine selection criteria.

FUNDING:

Salaries and benefits for the Outreach Interns have been funded for FY 2006-07. The Employee Relations Department will administer the program funds.

DEPARTMENT EXPECTATIONS:

Each Department Director is expected to host Outreach Interns. Host departments provide participants with a supervisor to monitor and advise the intern, a place to work, and basic office equipment and supplies. Host departments should provide the interns with a meaningful work experience with measurable goals and objectives.

DEPARTMENT ROTATIONS:

Outreach Interns begin their rotation with the Employee Relations Department. The interns are processed into the County payroll and computer systems and become oriented to the County policies, procedures, and culture. Ideally, each Outreach Intern will work in two departments over their one-year internship, spending approximately five months in each department. The Employee Relations Department provides support through regular visits and communication with interns and departments.

PROGRAM COMPLETION:

Departments will provide performance feedback to The Employee Relations Department for the interns. The Employee Relations Department will provide the Outreach Interns with a formal performance evaluation at program completion. Participants are recognized by the County Manager.

Upon completion of the program, continued employment with Miami-Dade County is not guaranteed. The Employee Relations Department will provide Outreach Interns with career counseling and encourage departments to interview participants for job opportunities.

For more information contact:

Career Development Division
Employee Relations Department
111 N.W. First Street, Suite 2110
Miami, Florida 33128
(305) 375-2473
(305) 375-4138 (fax)

OUTREACH CLERICAL INTERN
Job Specifications

This position is part of a one-year internship program. Applicant must be an individual with a disability to be eligible. Disability is defined as a physical or mental impairment that substantially limits one or more major life activities.

NATURE OF WORK

This is routine clerical work which follows well established procedures.

Employees in this class work according to well defined procedures and methods. Detailed instructions and close supervision are received at the beginning of work and on new assignments, but regular routine assignments may be performed more independently and some initiative and judgment is utilized as experience is gained. Assignments to the class may include the operation of typewriters, adding machines and other standard office equipment for which no previous training is required. Employees may make arithmetical or other checks upon work of other employees for accuracy, but do not exercise direct supervision over others. Work is subject to close supervision and is reviewed by superior on completion both for content and accuracy.

ILLUSTRATIVE TASKS

Sorts and files material alphabetically, numerically and by other predetermined categories; withdraws material from files upon request and keeps record of materials removed.

Makes simple posting to various clerical, fiscal and other records, and computer data available from records according to standard procedures.

Acts as receptionist or desk clerk; answers routine questions regarding departmental activities; directs callers to proper places on the basis of their business requests; assists public in the preparation of routine forms and statements.

Opens, sorts and distributes mail; operates postage meter; bags outgoing mail; sells stamps, postcards and other postage material; keeps simple fiscal and clerical records.

Completes simple forms and reproduces records by copy machine; computes per diem or other fees and posts docketts.

Places telephone calls for clinic personnel; orders supplies and records deliveries; makes return appointments for clinic patients; directs patients to clinics; files patient charts and acts as receptionist during visiting hours.

Performs related work as required.

KNOWLEDGES, ABILITIES AND SKILLS

Some knowledge of business English, spelling and arithmetic.

Some knowledge of office practices and procedures.

Ability to learn assigned clerical tasks readily and to adhere to prescribed routines.

Ability to make arithmetic computations and tabulations accurately and with reasonable speed.

Ability to meet and deal courteously with the general public.

OUTREACH ADMINISTRATIVE INTERN

Job Specifications

This position is part of a one-year internship program. Applicant must be an individual with a disability to be eligible. Disability is defined as a physical or mental impairment that substantially limits one or more major life activities.

NATURE OF WORK

This is administrative work in performing various administrative activities in a central administrative division or special program in a county department or agency.

Employees in this class are responsible for performing various administrative duties in assisting departmental management in carrying out required administrative operations. Duties or combination of duties performed vary, depending on the department to which assigned. Some incumbents in the class perform specialized duties of a staff nature relating to a specific program. Employees are assigned duties such as cost analysis and control, budget preparation and expenditure control, purchasing and inventory work, methods and procedure studies, report or grant proposal preparation and personnel administration. Incumbents exercise some independent judgment in devising and installing new work methods, interpreting rules, regulations and procedures and in making recommendations to superiors. Supervision may be exercised over clerical and technical employees who assist in various phases of administrative operations. Supervision is received from an administrative superior who reviews work for attainment of desired management objectives and conformity with established administrative and departmental policies and procedures through conferences, personal inspections and review of reports.

ILLUSTRATIVE TASKS

Assists in planning and preparing divisional or project budgets; insures adherence to budget procedures and guidelines; reviews completed budget documents for format, accuracy of budget codes and computations; monitors budget forecasts and expenditures for departmental projects and activities; prepares periodic budget reports.

Supervises clerical subordinates engaged in preparation of invoices and billings for equipment or services, issuance of purchase orders and requisitions, reconciliation of computer reports and related clerical activities; provides training to employees in new procedures required with automated accounting and reporting systems.

Coordinates the maintenance of various accounting records such as cash and surety bonds; audits departmental financial records to obtain data for management reports relative to budget control, purchasing standards, stores and equipment inventory control or improvements in operational efficiency; recommends procedures for collection and reporting of data on departmental programs in cost analysis and revenue producing activities; accounts for costs and reviews revenue summaries to assure revenues are properly collected.

Analyzes financial, procurement and administrative procedures for simplification and improvement in efficiency; analyzes purchase orders to determine requirements; checks requisitions for completeness and accuracy; writes specifications and requisitions and assists in selection of bids for departmental equipment or supplies.

Interviews applicants for employment to determine qualifications; provides information to applicants regarding career county employment; requests eligible lists and coordinates panel interviews for departmental positions; processes affirmative action complaints from employees through appropriate channels.

Assists in the supervision of clerical subordinates engaged in processing departmental personnel actions; discusses work related problems with employees; coordinates departmental personnel activities

with federal funded employment programs as necessary.

Conducts assigned research, procedural or administrative studies and prepares narrative and statistical reports, proposing courses of action; reviews workload reports from operating segments for conformance with department instructions; audits program records reflecting client or patron workloads for conformance with departmental instructions and accuracy of computations.

Makes recommendations regarding hiring, discipline and promotion of subordinates; authorizes leave and overtime; evaluates and rates employee performance.

Performs related work as required.

KNOWLEDGES, ABILITIES AND SKILLS

Considerable knowledge of the principles of general management and their application to governmental administration.

Considerable knowledge of research techniques and the sources and availability of current information applicable to the area of assignment.

Knowledge of budget preparation procedures and reporting requirements.

Knowledge of departmental, legal, administrative and procedural regulations.

Knowledge of the principles and procedures of modern office administration.

Knowledge of basic accounting principles, practices and procedures.

Knowledge of the use of data processing and cost accounting systems.

Knowledge of the principles, practices and procedures of public personnel administration.

Knowledge of supervisory principles and practices.

Ability to analyze administrative problems and make sound recommendations as to their solution.

Ability to supervise the work of subordinates in a manner conducive to full performance and high morale.

Ability to understand and carry out complex oral and written instructions.

Ability to establish and maintain effective working relationships with other employees, supervisors, departmental officials and the general public.

Ability to express ideas clearly and concisely, both verbally and in writing.

Ability to supervise preparation of records and reports on a timely and complete basis.

Ability to prepare complete narrative and statistical reports.

Ability to conduct appropriate interviews with prospective employees and obtain pertinent information.

Ability to prepare accurate accounting and budgetary reports.



Outreach Intern Program Host Department Feedback Form

This feedback form will assist the Employee Relations Department in evaluating the Outreach Intern. This form should be completed during the final week of the intern's stay with the department.

Name of Intern: _____ Administrative/Professional Clerical

Period covered: from ____/____/____ to ____/____/____

Department providing feedback _____

1. QUANTITY OF WORK: Includes amount of work performed.

Rating: Unsatisfactory Needs Improvement Satisfactory Above Satisfactory Outstanding
Explain Why:

2. QUALITY OF WORK: Includes accuracy, achievement of objectives; effectiveness, initiative and resourcefulness and, neatness of work product.

Rating: Unsatisfactory Needs Improvement Satisfactory Above Satisfactory Outstanding
Explain Why:

3. WORK HABITS: Includes attendance, observation of work hours, completion of work on schedule, compliance with rules, policies, and directives, safety practice and use of tools and equipment.

Rating: Unsatisfactory Needs Improvement Satisfactory Above Satisfactory Outstanding
Explain Why:

4. INTERPERSONAL SKILLS: Includes participation and teamwork; contribution to unit morale; working cooperatively with the public, peers, and subordinates; and accepting advice and counseling from superiors.

Rating: Unsatisfactory Needs Improvement Satisfactory Above Satisfactory Outstanding
Explain Why:

Evaluator: _____ Title: _____

Signature: _____ Date of Evaluation: _____

Please fax this completed form to the Employee Relations Department at (305) 375-4138.



Employee Relations Department ESSENTIAL JOB FUNCTIONS FORM

The Americans with Disabilities Act (ADA) requires employers to focus on the essential functions of a position to determine whether an individual is qualified. Essential job functions are the fundamental job duties that an applicant or employee must be able to perform, with or without reasonable accommodation. The Essential Job Functions Form is intended to supplement the position description and announcement in identifying essential job functions. Please review the instructions and guidelines on page 2 before completing this form. If you need assistance completing this form, please contact the Employee Relations ADA Specialist at (305) 375-5876.

Department	Position Title	Occupational Code
Division	Section	Location of Position

List essential job functions here. You may list as many or as few functions as necessary. *Please attach additional sheets if necessary or desired.*

- A.

- B.

- C.

- D.

- E.

- F.

Name of Individual Preparing this Form	Preparer's Position Title	Telephone
Signature of Department Director (or designee)	Name of Department Director (or designee)	Date

DEPARTMENTS:

Please forward completed forms to: Employee Relations Department
 Attn: Employee Relations ADA Specialist
 111 N.W. First Street, Suite 2110
 Miami, Florida 33128
 (305) 375-5876
 (305) 375-4138 (fax)

Completed Essential Job Functions Forms are subject to the review and approval of the Employee Relations Department.

**ESSENTIAL JOB FUNCTIONS FORM
INSTRUCTIONS & GUIDELINES**

1. To identify essential job functions, the first consideration is whether employees in the position are actually required to perform the function.
2. If a person does perform a given function, the next consideration is whether removing that function would fundamentally change the job.
3. A list of essential job functions should focus on the results or outcome of a function, not solely on the way it customarily is performed.

For example: A job that requires objects to be moved from one place to another should state this essential function. The analysis may note that the person in the job "lifts 50 pound cartons to a height of 3 or 4 feet and loads them into truck-trailers 5 hours daily," but should not identify the "ability to manually lift and load 50 pound cartons" as an essential function unless this is the only method by which the function can be performed without causing an undue hardship.

4. A function may be essential if the position exists to perform the function.

For example: A person is hired to proofread documents. The ability to proofread accurately is an essential function, because this is the reason that this position exists.

5. A function may be essential if there are a limited number of other employees available to perform the function, or among whom the function can be distributed. This may be a factor because there are only a few other employees, or because of fluctuating demands of a business operation.

For example: It may be an essential function for a file clerk to answer the telephone if there are only three employees in a very busy office and each employee has to perform many different tasks. Or, a company with a large workforce may have periods of very heavy labor-intensive activity alternating with less active periods. The heavy work flow during peak periods may make performance of each function essential, and limit an employer's flexibility to reassign a particular function.

6. A function may be essential if the function is highly specialized and a person is hired for special expertise or ability to perform it.

For example: A company wishes to expand its business with Japan. For a new sales position, in addition to sales experience, it requires a person who can communicate fluently in the Japanese language. Fluent communication in the Japanese language is an essential function of the job.

7. The consequences of not requiring a person in a job to perform a function are important factors to consider. Sometimes a function that is performed infrequently may be essential because there will be serious consequences if it is not performed.

For example: A corrections officer may only need to pursue and physically restrain an inmate with a weapon occasionally, but the function is essential because of the serious consequences if the officer could not perform this function.

8. The employer's judgment; a written job description prepared before advertising or interviewing applicants for a job; the amount of time spent performing a function; the terms of a collective bargaining agreement; the work experience of people who have performed a job in the past and work experience of people who currently perform similar jobs; and the nature of the work operations and the employer's organizational structure may also be factors in determining whether a function is essential.

If you need more information about Essential Job Functions, or assistance completing this form, please contact the Employee Relations ADA Specialist at (305) 375-5876.

Appendix D

City of Chicago Reasonable Accommodations Policy

I. Statement of Purpose

The Americans with Disabilities Act – commonly referred to as the “ADA” - is a federal civil rights law enacted in 1990 to protect the employment and accessibility rights of disabled individuals. Most employers are affected by the ADA and must take steps to comply with its provisions. As stated by the Equal Employment Opportunity Commission, “an employer cannot discriminate against qualified [job] applicants and employees on the basis of disability.”

One of the goals of the ADA and other disability laws, statutes and ordinances enacted by federal, state, and local governmental entities is to eliminate barriers to employment and prohibit discrimination against qualified individuals with disabilities in all aspects of employment, including hiring, firing, promotion, compensation, training, job application procedures, advertising, layoffs, leaves from employment, fringe benefits and recruitment. Further, these laws, statutes and ordinances prohibit segregation based on disability and even prohibit discrimination based on specific type of disability.

In addition to the Americans with Disabilities Act, specific disability statutes and ordinances applicable to the City of Chicago include the Rehabilitation Act of 1973, the Illinois Human Rights Act, and the Chicago Human Relations Ordinance. These statutes and ordinances are enforced by several agencies, including the Equal Employment Opportunity Commission, the Illinois Department of Human Rights, the Illinois Human Rights Commission, and the Chicago Commission on Human Relations.

As an employer, the City of Chicago is required to comply with all applicable laws, statutes, ordinances, rules and regulations concerning disabled applicants and employees. Further, as an employer committed to equal employment opportunities, the City of Chicago has adopted policies and practices to ensure equal access to employment opportunities for disabled applicants and employees. Reasonable accommodations are one important measure for meeting those goals.

It is the policy of the City of Chicago to provide reasonable accommodations to applicants and employees who are qualified individuals with a disability. The City of Chicago will look to applicable laws, statutes, ordinances, rules, regulations and guidelines in assessing a request for reasonable accommodation as required to afford equal employment opportunities. A job opportunity shall not be denied because of the need to make reasonable accommodations to an individual’s disability. An individual with a disability will not be discriminated against by reason of the disability in any term or condition of employment, so long as the individual can perform the essential functions of the position he or she applies for, bids on, or seeks promotion to, with or without a reasonable accommodation. The City department or agency will provide an appropriate reasonable accommodation in a timely and cost-effective manner.

This document sets forth the City of Chicago’s policy for complying with legal requirements for reasonable accommodation of individuals with disabilities in employment. It does not create any private cause of action, and is not a substitute for the various remedies provided under applicable laws, statutes and ordinances.

II. Glossary

The various laws, statutes and ordinances define the term disability. The City is obligated to comply with the definition of disability as defined by applicable statutes, laws or ordinances. In many cases, the City may need to analyze its obligations under more than one law, statute or ordinance.

The following definitions apply to this policy:

Disability: The term “disability” means, with respect to an individual,

- a physical or mental impairment that substantially limits one or more of an individual’s major life activities;
- a record of having such an impairment; or
- being regarded or perceived as having such an impairment, whether or not one is actually impaired.

The term “disability” shall also cover individuals who have a known association or relationship with a disabled person.

Major Life Activities: While not defined in the statutes, courts have determined that the term “major life activities” includes but not limited to, seeing, hearing, speaking, breathing, performing manual tasks, learning, caring for oneself, eating, sitting, standing, walking, lifting, reading and working in a broad category of jobs.

Impairment: An “impairment” is a physical or mental condition that restricts an individual’s ability to do what an average person can do. An impairment is a disability only if it substantially limits one or more major life activities.

Substantial Limitation: To qualify as a disability, an impairment must cause a “substantial limitation” on a major life activity. The impairment may be one that interferes with the individual’s ability to perform a broad category of jobs.

Qualified Individual with a Disability: A “qualified individual with a disability” is one whose experience, education and/or training enable the person, with or without reasonable accommodation, to perform the essential functions of the job.

Essential Functions of the Job: “Essential functions of the job” means the fundamental job duties of a position and will vary from job to job. Every job has some functions that are essential and some that are not. A function is essential if the job exists to perform that function (or the function is highly specialized), or if a limited number of other employees are available to perform the function(s). In identifying the essential functions of the job, it should be considered whether employees in the position actually are required to perform the functions, or whether the job can be done satisfactorily if a particular function is removed or modified without fundamentally changing the job.

Reasonable Accommodation: A “reasonable accommodation” is an adjustment or modification for the impairment of an employee or applicant for employment by structuring the

application/interview process or the work environment in a manner that will enable the individual with a disability to apply for or perform the essential functions of the job. Reasonable accommodation may be required at any stage of the employment cycle - from the application process to performing essential job functions to enjoying employment-related privileges including, but not limited to, making facilities accessible, adjusting work schedules, restructuring jobs, providing assistive devices or equipment, providing readers or interpreters, and modifying work sites.

Undue Hardship: With respect to providing a reasonable accommodation, an “undue hardship” means a significant difficulty or expense and focuses on the resources and circumstances of the department or agency in relationship to the cost or difficulty of providing a specific accommodation. Undue hardship refers not only to financial difficulty, but also to reasonable accommodations that are unduly extensive, substantial, or disruptive, or those that would alter the essential functions of the job or the nature or operation of the department or agency.

Interactive Process: When an employee or applicant requests a reasonable accommodation, the Disability Liaison and/or the manager or supervisor for the hiring department or agency will engage in a collaborative or “interactive process” with the employee or applicant to identify and implement an appropriate accommodation.

III. Disability Liaison: Designation, Training and Responsibilities.

Each City department or agency shall appoint one or more Disability Liaisons. Each department or agency that appoints more than one Disability Liaison may delineate the respective areas of authority of the Disability Liaison(s). In each department or agency, the names and areas of authority of the Disability Liaison(s) shall be communicated to each employee and shall be posted at appropriate sites in the department or agency. Disability Liaisons are authorized to request, receive, and maintain confidential medical information on all employees in their Department or agency. Each Disability Liaison shall be trained by the Department of Personnel, with the assistance of the Mayor’s Office for People with Disabilities and Department of Law. Training shall include this Policy and the legal requirements for making reasonable accommodations for individuals with disabilities.

It shall be the responsibility of each Disability Liaison to:

- Assist City personnel in their department or agency in responding to requests for reasonable accommodation.
- Maintain contact with the Mayor’s Office for People with Disabilities, the Department of Personnel and the Department of Law concerning responses to requests for reasonable accommodation.
- Advise managerial or supervisory personnel concerning the status of requests for reasonable accommodation.
- Document the process of granting or denying each request for reasonable accommodation within their area of authority.

It shall be the responsibility of the Mayor's Office for People with Disabilities to render technical assistance and assist departments or agencies in obtaining funding for reasonable accommodations. The City has created a centralized reasonable accommodation account and has allocated funds for the purpose of implementing acceptable accommodations for employees and applicants for employment. The Mayor's Office for People with Disabilities shall be responsible for the administration of these funds.

It shall be the responsibility of the Department of Law to give legal advice to the Disability Liaisons and other City personnel upon request or when the need is apparent. The Department of Personnel shall develop and distribute forms for requests for reasonable accommodation and otherwise assist in the reasonable accommodation process. Unless circumstances make it impracticable, a request for reasonable accommodation should be made on forms provided by the City.

A City-wide Disability Liaison will be appointed in the Mayor's Office for People with Disabilities who will be responsible for the oversight of this Policy, and assist the Department of Personnel in developing a City of Chicago Reasonable Accommodation in Employment and Hiring Practices Procedural Manual to implement this Policy and to train Disability Liaisons, managers and supervisors. The City-wide Disability Liaison will maintain a current roster of employees designated as departmental and agency Disability Liaisons.

IV. Request For Reasonable Accommodation: Procedures

A. **EMPLOYEES**

It is the employee's responsibility to request an accommodation. If there is an obvious need, the department or agency manager or supervisor may inquire whether there is a need for an accommodation, avoiding inquiry into the medical condition of the employee. The manager or supervisor will discuss the matter with a Disability Liaison before making any inquiry.

Upon receipt of a request for reasonable accommodation, the department or agency manager or supervisor shall consult with the appropriate Disability Liaison. The Disability Liaison shall determine what initial information is necessary (e.g., information from the employee, medical documentation, information concerning job duties and work schedule, whether consultation with the Mayor's Office for People with Disabilities, Department of Law and Department of Personnel is needed at that time) and the level of managerial or supervisory authority necessary to make a decision on the request. The Disability Liaison may either participate in the process personally or advise the manager or supervisor on how to proceed; however, it is always the responsibility of the Disability Liaison to monitor the process and see that this Policy is being followed. The employee making the request should be involved in an interactive process.

While some requests may not require significant investigation and deliberation, others may require significant medical documentation and/or evaluation; consultation(s) with the employee concerning how specific physical and mental abilities and limitations relate to specific job duties and the employee's preferences concerning alternative forms of accommodation; and consultation with the Mayor's Office for People with Disabilities, Department of Law and Department of Personnel. The process must include one or more interactive discussion(s) with the employee, unless the situation is such that the requested accommodation is granted quickly without the need for further inquiry. The City is not limited by the form of accommodation requested by the employee, but may consider an alternative form or forms of accommodation.

If the cost or operational effect of an accommodation may cause an undue hardship, this must be discussed with the Disability Liaison, Mayor's Office for People with Disabilities, Department of Law and Department of Personnel. In addition to administering the funds in the City's reasonable accommodation account, the Mayor's Office for People with Disabilities shall be responsible for seeking other sources of funding, both internally and outside City government.

If it is determined by appropriate authority that the employee has a disability, requires an accommodation to perform the essential functions of his or her position or to receive equal benefits of employment, including training and access to facilities, and that the requested accommodation is reasonable, an accommodation should be granted. If an alternative form or forms of accommodation are offered, the employee is not required to accept the alternative accommodation; however, the City is not obligated to offer further alternatives once an offer of a reasonable accommodation is made.

If a request for reasonable accommodation is denied, the employee must be advised in writing that he or she has the right to appeal the denial in accordance with this Policy.

B. APPLICANTS

For the purpose of this Section, the term "applicant" includes City employees applying for other positions, as well as applicants who are not current City employees applying for City positions.

All job or bid announcements, postings, advertisements or other invitations to apply for City employment must include the following statement:

It is the policy of the City of Chicago to provide reasonable accommodations for qualified individuals with disabilities who are employees or applicants for employment. If you need assistance to interview or test, you should contact _____ at _____ or _____ (TTY). Employment opportunities will not be denied or otherwise affected because of the need to make reasonable accommodations for an individual's disability.

Generally, during the application or interview phase of the hiring process, an applicant cannot be asked any questions which would lead an applicant to divulge whether he or she is an individual with a disability or the nature or severity of such disability. An applicant may be asked whether he or she can perform the essential functions of the position applied for if that question is asked of all applicants. If there is an obvious disability, or if the applicant voluntarily discloses the existence of a hidden disability, then an applicant may be asked whether he or she needs a reasonable accommodation in order to complete the application or interview process. Discussions of reasonable accommodations that may be needed if the applicant is hired are generally prohibited at this stage of the hiring process. Where practicable, a request for reasonable accommodation should be made on City forms.

A request for reasonable accommodation by an applicant who believes he or she is disabled and needs a reasonable accommodation for the position applied for will be handled by a Disability Liaison for the hiring department or agency or, if more appropriate, a Disability Liaison from the Department of Personnel. Such requests will be handled in the same manner as requests by employees as provided for in Part A of this section.

A request for a reasonable accommodation in testing or the interview process will be directed to a Disability Liaison for the department or agency that is conducting the test or interview process. A Disability Liaison from the Department of Personnel should be consulted if the Department of Personnel is not conducting the test or interview. With that exception, such requests will be handled in the same manner as requests by employees as provided for in Part A of this section.

V. Appeal Process

A Reasonable Accommodation Review Board (“Review Board”) shall be established to review requests for accommodation that have either been denied by the employing department or agency, or rejected as unsatisfactory by the individual with a disability requesting the accommodation. Applicants who are not current City employees applying for City positions do not have access to this appeal process.

The Review Board will be composed of three (3) members: the Commissioner of the Mayor’s Office for People with Disabilities; the Commissioner of the Department of Personnel; and the Director of the Office of Budget and Management; or their designee(s).

If an employee disagrees with the initial decision regarding an accommodation request he or she has made, the employee has the right to appeal that decision using the following procedure:

1. An appeal stating the reason(s) for the disagreement must be filed in writing with the Review Board within thirty (30) calendar days of the date of the initial decision as shown on the “Reasonable Accommodation Request Form.” The employee appealing the initial decision shall provide a copy of the appeal to the employing department or agency.
2. The Review Board will evaluate the initial decision and consider any additional information or statements supplied by the employee, as well as additional information from medical or vocational rehabilitation experts. The Review Board may consult the Disability Liaison or staff of the department or agency involved in the initial decision, taking care to provide confidentiality for the employee.
3. The Review Board will review the record of the accommodation with the department or agency head before making the final decision regarding the appeal.
4. The Review Board will notify the employee in writing of the final decision regarding the accommodation request or any alternative to that request within thirty (30) calendar days after the appeal was filed. Copies of this notification will be sent to the department or agency and designated Disability Liaison. If the thirty (30) calendar day time limit cannot be met, the Review Board will inform the employee, the department or agency, and designated Disability Liaison of an alternative time limit not to exceed an additional sixty (60) calendar days.
5. This is the final internal appeal process for disagreements regarding reasonable accommodation requests. The Review Board will have the authority to affirm, reverse or modify the initial decision of the department or agency. When reversing or modifying

the initial decision, the Review Board will provide the basis upon which it has granted the requested reasonable accommodation or other suitable arrangement.

VI. Other Complaints

Nothing in this policy should be construed to impede or prohibit a timely filing of an ADA or discrimination complaint with the appropriate federal, state or city agency. Nor does this policy prohibit a timely filing of an internal discrimination complaint or grievance unrelated to a request for an accommodation with the employing department or agency.

VII. Supplemental Procedures

Nothing herein shall prevent a department or agency from developing internal procedures for making reasonable accommodations, which supplement this Policy. Such internal procedures may not contradict this Policy and must be approved by the Departments of Law, Personnel and the Mayor's Office for People with Disabilities before implementation.

VIII. Confidentiality

Medical files shall be maintained on separate forms, in separate medical files, in locked file cabinets. Managers and supervisors may be informed regarding necessary restrictions on the work of the employee and necessary accommodations; first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.

Appendix E

APPLICANT DATA SHEET

Job applying for:		Job announcement #:
Name (Last, First, Middle):		
Mailing address:		
City:	State:	Zip code:
E-mail address:		
Home phone:	Are you currently a King County career service employee? <input type="checkbox"/> Yes <input type="checkbox"/> No	
How did you hear about this job? List specific website, newspaper, etc.		
If you need a disability accommodation in the application or testing process, please call the contact number listed on the job announcement.		

AFFIRMATIVE ACTION INFORMATION – CONFIDENTIAL AND VOLUNTARY

King County is committed to non-discrimination in employment. To assist in this effort, we ask your voluntary cooperation in responding to the questions below. The data collected will be used for statistical and affirmative action purposes only. Responses will not be used in evaluating your application. Definitions of the categories on this page are available at <http://metrokc.gov/jobs/aadefs.htm>.

1. **Are you** Male Female

2. **Ethnicity:** Are you Hispanic or Latino (A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin unique to the Americas, regardless of race)? Yes No

3. **Race:** (not Hispanic or Latino)
 - African American/Black:* A person having origins in any of the black racial groups of Africa.
 - American Indian/Alaska Native:* A person having origins in the original peoples of North America who maintain cultural identification through tribal affiliation or community recognition.
 - Asian:* A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, the Philippine Islands, and Vietnam.
 - Native Hawaiian or Other Pacific Islander:* A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands
 - White/Caucasian:* A person having origins in any of the original peoples of Europe, North Africa, the Middle East, or Southwest Asia.
 - Two or more races:* A person who identifies with more than one of the five races listed above.

4. **Do you have a disability as defined by the Americans with Disabilities Act (ADA)?** Yes No
 All disability status information will be treated as confidential.

5. **Have you ever been on active duty in the U.S. Armed Forces?** No Yes Dates: _____

6. **If you have been on active duty in the U.S. Armed Forces, which, if any, apply?**
 - Vietnam Era veteran
 - Special disabled veteran
 - Recently separated veteran
 - Other protected veteran



Accessibility of State and Local Government Websites to People with Disabilities

The Internet is dramatically changing the way that American government serves the public. Taking advantage of new technology, many State and local governments are using the web to offer citizens a host of services including:

- corresponding online with local officials;
- providing information about government services;
- renewing library books or driver's licenses;
- providing tax information and accepting tax returns; and
- applying for jobs or benefits.

These government websites are important because they:

- allow programs and services to be offered in a more dynamic, interactive way, increasing citizen participation;
- increase convenience and speed in obtaining information or services;
- reduce costs in providing programs and information about government services;
- reduce the amount of paperwork; and
- expand the possibilities of reaching new sectors of the community or offering new programs.

When government is constantly being asked to do more with less, the Internet is playing a vital role in allowing government to better serve all of its citizens.

The Americans with Disabilities Act (ADA) and, if the government entities receive Federal funding, the Rehabilitation Act of 1973, generally require that State and local governments provide qualified individuals with disabilities equal access to their programs, services, or activities, unless doing so would fundamentally alter the nature of their programs, services, or activities or would impose an undue burden. One way to help meet these requirements is to ensure that government websites have accessible features for people with disabilities, using the simple steps described in this document. An agency with an inaccessible website may also meet its legal obligations by providing an alternative accessible way for citizens to use the programs or services, such as a staffed telephone information line. These

Local government websites provide important information and services to citizens

alternatives, however, are unlikely to provide an equal degree of access in terms of hours of operation and the range of options and programs available. For example, job announcements and application forms, if posted on an accessible website, would be available to people with disabilities 24 hours a day, 7 days a week.

Online Barriers Faced By People with Disabilities

Many people with disabilities use “assistive technology” to enable them to use computers and access the Internet. Blind people who cannot see computer monitors may use screen readers – devices that speak the text that would normally appear on a monitor. People who have difficulty using a computer mouse can use voice recognition software to control their computers with verbal commands. People with other types of disabilities may use still other kinds of assistive technology. New and innovative assistive technologies are being introduced every day.

Poorly designed websites can create unnecessary barriers for people with disabilities, just as poorly designed buildings prevent some from entering. Designers may not realize how simple features built into a web page will assist someone who, for instance, cannot see a computer monitor or use a mouse.

One example of a barrier would be a photograph of a Mayor on a town website with no text identifying it. Because screen readers cannot interpret images unless there is text associated with it, a blind person would have no way of knowing whether the image is an unidentified photo or logo, artwork, a link to another page, or something else. Simply adding a line of simple hidden computer code to label the photograph “Photograph of Mayor Jane Smith” will allow the blind user to make sense of the image.

Accessible Design Benefits Everyone

When accessible features are built into web pages, websites are more convenient and more available to everyone – including users with disabilities. Web designers can follow techniques developed by private and government organizations to make even complex web pages usable by everyone including people with disabilities. For most websites, implementing accessibility features is not difficult and will seldom change the layout or appearance of web pages. These techniques also make web pages more usable both by people using older computers and by people using the latest technologies (such as personal digital assistants, handheld computers, or web-enabled cellular phones).

With the rapid changes in the Internet and in assistive technologies used by people with disabilities to access computers, private and government organizations have worked to establish flexible guidelines for accessible web pages that permit innovation to continue.

Resources for Web Developers

To make web pages accessible, the web developer needs to know about web page features that can make a web page less accessible or more accessible. Information about such features is easily available and many software developers are adding tools to web development software to make it easier to make web pages accessible.

Two important resources provide guidance for web developers designing accessible web pages. One is the **Section 508 Standards**, which Federal agencies must follow for their own new web pages. To learn more about the Section 508 Standards:

- The Access Board maintains information on its website at www.access-board.gov and has a useful guide for web developers at www.access-board.gov/sec508/guide/1194.22.htm;

- The Department of Justice has information about accessible web page design in an April 2000 report to the President. This report is available at www.usdoj.gov/crt/508/report/content.htm, and
- The General Services Administration hosts an online course for web developers interested in accessible web design. This program was developed in conjunction with

the Access Board, the Department of Justice, and the Department of Education and provides an interactive demonstration of how to build accessible web pages. This course is available at www.section508.gov, which also provides information about the Federal government's initiative to make its electronic and information technology accessible to people with disabilities.

Voluntary Action Plan for Accessible Websites

- **Establish a policy that your web pages will be accessible** and create a process for implementation.
- **Ensure that all new and modified web pages and content are accessible:**
 - Check the HTML¹ of all new web pages. Make sure that accessible elements are used, including alt tags, long descriptions, and captions, as needed.
 - If images are used, including photos, graphics, scanned images, or image maps, make sure to include alt tags and/or long descriptions for each.
 - If you use online forms and tables, make those elements accessible.
 - When posting documents on the website, always provide them in HTML or a text-based format (even if you are also providing them in another format, such as Portable Document Format (PDF)).
- **Develop a plan for making your existing web content more accessible.** Describe your plan on an accessible web page. Encourage input on improvements, including which pages should be given high priority for change. Let citizens know about the standards or guidelines that are being used. Consider making the more popular web pages a priority.
- **Ensure that in-house staff and contractors responsible for web page and content development are properly trained.**
- **Provide a way for visitors to request accessible information or services by posting a telephone number or E-mail address on your home page.** Establish procedures to assure a quick response to users with disabilities who are trying to obtain information or services in this way.
- **Periodically enlist disability groups to test your pages for ease of use;** use this information to increase accessibility.

¹ Web pages are written using a language called HTML (or "hypertext markup language"). HTML is a "markup language" that tells a computer program (called a "browser") how information will appear or will be arranged on a computer screen. HTML tags are specific instructions understood by a web browser or screen reader.

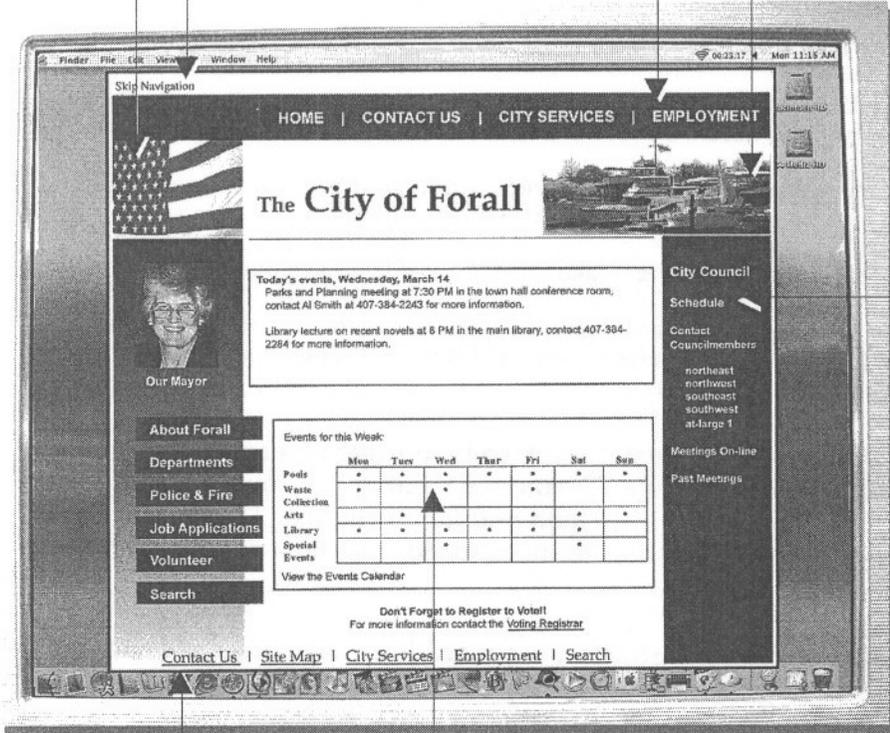
Examples of Accessible Features for Websites

All images and graphics need to have an alt tag or long description.

Use alt tags for image maps and for graphics associated with the image map so that a person using a screen reader will have access to the links and information.

When navigation links are used, people who use a screen reader must listen to all the links before proceeding. A skip navigation link provides a way to bypass the row of navigation links by jumping to the start of the web page content.

Some photos and images contain content that cannot be described with the limited text of an alt tag. Using a long description tag provides a way to have as much text as necessary to explain the image so it is accessible to a person using a screen reader but not visible on the web page.



Text links do not require any additional information or description if the text clearly indicates what the link is supposed to do. Links such as "click here" may confuse a user.

When tables with header and row identifiers are used to display information or data, the header and row information should be associated with each data cell by using HTML so a person using a screen reader can understand the information.

A link with contact information provides a way for users to request accessible services or to make suggestions.

Resources for Web Developers (continued)

A more comprehensive resource is the **Web Content Accessibility Guidelines** developed by the Web Accessibility Initiative. These guidelines help designers make web pages as accessible as possible to the widest range of users, including users with disabilities. The Web Accessibility Initiative is a subgroup of the World Wide Web Consortium — the same organization that standardizes the programming language followed by all web developers.

- Information for web developers interested in making their web pages as accessible as possible, including the current version of the **Web Content Accessibility Guidelines** (and associated checklists), can be found at www.w3c.org/WAI/Resources, and
- Information about the Web Accessibility Initiative can be found at www.w3c.org/WAI.

For More Information

Technical Information Regarding Web Accessibility

For technical assistance regarding Section 508 Standards and how to make web pages accessible to people with disabilities, please contact the Access Board:

800-872-2253 (voice)

800-993-2822 (TTY)

Information about the ADA

The Department of Justice provides technical assistance to help State and local governments understand and comply with the ADA. An important source of ADA information is the Department's ADA Home Page on the World Wide Web. This extensive website provides access to ADA regulations; all Department ADA technical assistance materials, including newly-released publications; proposed changes in the ADA regulations; and access to Freedom of Information Act materials, including technical assistance letters. The website also provides links to other Federal agencies with ADA responsibilities.

ADA Home Page -- www.ada.gov

In addition, the Department of Justice operates a toll-free ADA Information Line that provides access to ADA specialists during business hours.

ADA Information Line

800-514-0301 (voice)

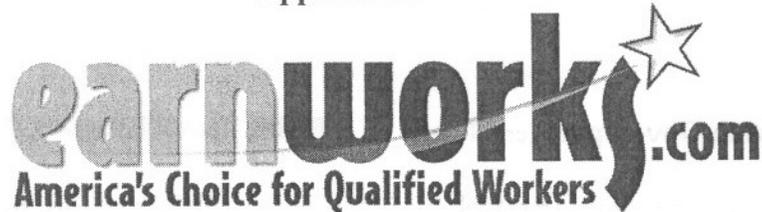
800-514-0383 (TTY)

Reproduction

Reproduction of this document is encouraged.

June 2003

The Attorney General has determined that publication of this periodical is necessary in the transaction of the public business required by law of the Department of Justice.



Are you a Jobseeker with a Disability? Employers Want to Hear from You!

The Employer Assistance & Recruiting Network (EARN) is the premier provider of **free** disability consulting and candidate sourcing for employers. Similar to a recruiting agency, we recruit on behalf of employers actively seeking candidates with disabilities for competitive jobs. EARN is an initiative of the U.S. Department of Labor's Office of Disability Employment Policy.

EARN supports **Montgomery County, Maryland's** efforts to recruit and hire people with disabilities. The Montgomery County Government is a dynamic and progressive organization, committed to equal employment opportunity, diversity, family-friendly policies, and customer service, and is a recent winner of both the All-America Community Award and the Work-Life Alliance Seal of Approval.

Apply to Montgomery County Today!

View jobs and submit resume at:

<http://www.montgomerycountymd.gov/content/ohr/career/level1.asp>

From the website above, see the section titled "Application Procedure and Information" for detailed instructions on how to apply, the types of job postings, resume tips, and other information about the competitive rating process.

To learn more about EARN and learn about other job leads, contact us at
1-866-EARN-NOW (1-866-327-6669) (V/TTY)
earn@earnworks.com
www.earnworks.com

EARN is a nationwide cost free recruiting and consultation service that provides employers with workforce solutions. EARN connects employers to a national network of service providers with access to job candidates. As the venue linking employers to service providers and their job candidates, EARN does not participate in any way in the actual discussions and transactions between employers and service providers/candidates. Read more about EARN's policy at <http://www.earnworks.com/privacy.htm>.

Appendix H



Montgomery County
Office of Human Resources
101 Monroe Street, 7th floor
Rockville, MD 20850
(240) 777-5000

Montgomery County, Maryland

Explore career opportunities with Montgomery County Government!

The Montgomery County Government is a dynamic and progressive organization that is committed to equal employment opportunity, diversity, family-friendly policies, and customer service, and is a recent winner of both the All-America Community Award and the Work-Life Alliance Seal of Approval.

The County offers many exciting and rewarding opportunities for professional and personal growth. County professionals serve the community every day in a wide variety of careers - as Police Officers, Firefighters, Nurses, Librarians, Engineers, Information Technology Specialists, Social Workers, Mechanics, managers and administrators, and more.

If you're looking for the chance to learn, grow, and make a contribution to the community, visit our Career Site to view jobs and submit your resume. You'll find your choice of career opportunities, great benefits, an environment that welcomes and values diversity, and a work experience that is both challenging and rewarding!

Visit our website at www.montgomerycountymd.gov/careers



Appendix I

For OHR use only

Department _____ Division: _____ Position _____

Check here if this is a temporary/seasonal position.

OHR Specialist or hiring point of contact _____

OFFICE OF HUMAN RESOURCES
OCCUPATIONAL MEDICAL SERVICES
255 Rockville Pike, Suite 125
Rockville, Maryland 20850
(240) 777-5118 Fax (240) 777-5132

MONTGOMERY COUNTY, MARYLAND
REPORT OF APPLICANT'S MEDICAL HISTORY

You have received an offer of employment conditioned on the result of this medical evaluation. The information submitted is used to determine your ability to perform the essential functions of the job for which you applied and could be used for evaluation in future workers' compensation claims. If necessary, you may request a reasonable accommodation consistent with provisions of the Americans with Disabilities Act and Montgomery County Personnel Regulations (MCPR), Section 8. See <http://www.montgomerycountymd.gov/content/ohr/ResourceLibrary>. The aforementioned law and County regulation in part require that an applicant be able to perform the essential job functions, with or without a reasonable accommodation. The County will take appropriate action to comply with any such request. This form is to be completed and sent directly to Occupational Medical Services (OMS). Your employment application will not be further processed until OMS receives and evaluates this completed report. The information provided will be maintained in confidential medical files in accordance with MCPR, Section 4, and will be kept in the medical section of the Office of Human Resources (OHR). The information will be reviewed only by Occupational Medical Services or other authorized persons. Please print and use ink to complete this form.

Note: This form is both a County personnel record and a record of the County's retirement system. Any information presented on this medical history form may also be used to evaluate an individual's future eligibility for disability or disability retirement benefits. This form is not used to determine eligibility for insurance benefits, nor will this form be provided to health insurers without your written consent.

LAST NAME		FIRST NAME	MIDDLE NAME	POSITION APPLIED FOR	
HOME ADDRESS (STREET, CITY, STATE, ZIP CODE)				SOCIAL SECURITY NUMBER	
()	()				
HOME TELEPHONE	OFFICE TELEPHONE	DATE OF BIRTH	AGE	SEX	
EMERGENCY CONTACT (NAME, ADDRESS, PHONE)					
HEALTH CARE PROVIDER (NAME, ADDRESS, PHONE)					
DATE OF LAST PHYSICAL			DATE OF LAST CHEST X-RAY OR TB TEST		

Statement of Personal Health (in your own words):

Have you been medically evaluated by Montgomery County in the past as a job applicant? Yes No

If YES, state date and position:

Do you currently have any physical or mental conditions or are you currently disabled in any way that may limit your ability to perform the job for which you have applied? Yes No

If YES, explain:

Do you wear a hearing aid or use an assistive device such as (i.e. wheelchair, cane, crutches, walker, or artificial limb)? Yes No

If Yes, please specify:

Do you have any disability requiring a reasonable accommodation in order for you to perform this job? Yes No

If YES, explain:

Have you been refused employment or been terminated from a job due to:

- 1. sensitivity to chemicals, dust, sunlight, etc..... Yes No
- 2. inability to perform certain motions..... Yes No
- 3. inability to assume certain positions..... Yes No
- 4. any other medical, psychological, or physical reason? Yes No

If YES to any above, give date(s) and explain:

Have you within the past 3 years, had to change jobs because of a diagnosed injury, or illness (physical or psychological)?

Yes No

If YES, give date(s) and explain:

Have you been a patient in a hospital or rehabilitation center within the past 3 years?

Yes No

If YES, give date(s) and explain:

Have you, within the past 3 years, been advised to have a surgical operation that you declined to have?

Yes No

If YES, give date(s) and explain:

For applicants/employees requiring a physical exam that may include strenuous physical ability/agility testing, x-rays, immunizations, etc., please indicate if you are pregnant or suspect that you are pregnant?

Yes No

Do you wear: glasses *contact lenses artificial eye

Check as appropriate

*If wearer of contact lenses, indicate whether: Soft Hard Gas Permeable

If driving is an element of this job, have you any medical or other restriction pertaining to driving a motor vehicle?

Yes No

If YES, give date(s) and explain:

Are you currently taking prescription medications?

Yes No

If Yes, please list:

Are you currently taking any over the counter medications (decongestants, antihistamines, cough medicines) or supplements (i.e. St. Johns Wort, Echinacea) that may cause drowsiness?

Yes No

If Yes, please list:

Are you currently on any special diets recommended by a health care provider?

Yes No

If Yes, explain:

Have you ever smoked or used tobacco of any type?

Yes No

Do you currently smoke?.....

Yes No

If Yes, to either question, how long and how much? _____

Do you drink alcoholic beverages?

Yes No

If Yes, Check: daily weekly

Describe daily or weekly amount: _____

Within the past 3 years, have you been advised by a health care provider to reduce your consumption of alcohol because of a health condition resulting from or made worse by drinking alcohol?

Yes No

If Yes, explain:

To the best of your knowledge, have you had an exposure to any of the following either in your work or while engaged in a hobby?

- 1. Mercury (scientific instruments, chlorine plants, dental offices)..... Yes No
- 2. Arsenic (insecticides) Yes No
- 3. Acrylamide (construction, grouting)..... Yes No
- 4. Hexane (solvents, rubber cements, inks)..... Yes No
- 5. Trichloroethylene (trichlor "tri", degreasing)..... Yes No
- 6. Perchloroethylene (perchlor, perc, dry-cleaning industry)..... Yes No
- 7. Pesticides..... Yes No
- 8. Methyl butyl keytone (MEK, inks) Yes No
- 9. Carbon Disulfide (rayon/rubber industry, labs) Yes No
- 10. Lead (jewelry, foundries, battery industries, ammunition) Yes No
- 11. Toluene (solvents, lacquers, inks) Yes No
- 12. Methylene Chloride..... Yes No
- 13. Carbon Monoxide (by-products of combustion) Yes No
- 14. Fumes or hazardous Gases..... Yes No
- 15. Asbestos..... Yes No
- 16. Industrial dust or flames..... Yes No
- 17. Radioactive material, lasers, x-rays, radar Yes No
- 18. Frequent or prolonged exposure to extreme temperatures Yes No
- 19. Loud industrial noise..... Yes No
- 20. Firearms/guns..... Yes No
- 21. Frequent or prolonged use of a chain saw..... Yes No
- 22. Frequent or prolonged use of lawn equipment or chippers..... Yes No
- 23. Frequent or prolonged exposure to motorcycle noise..... Yes No
- 24. Frequent or prolonged use of industrial equipment that causes vibrations..... Yes No
(e.g. jackhammers).

If Yes, describe by number the exposure and estimate dates and duration of exposure:

Do you have any hobbies which could expose you to glues, solvents, or chemicals?

- 1. Painting..... Yes No
- 2. Furniture Refinishing..... Yes No
- 3. Lead Glass Making..... Yes No
- 4. Auto Body Work..... Yes No
- 5. Jewelry Making..... Yes No
- 6. Pottery Making or Ceramics..... Yes No
- 7. Other (please explain): _____ Yes No

If Yes, estimate time involved in the activity:

To the best of your knowledge, have you ever had an illness or symptoms resulting from exposure to a chemical or hazardous materials, not listed above? Yes No

If Yes, give date(s) and explain:

In the past 3 years, have you regularly worn any of the following **protective equipment** in your previous work or while engaged in your hobby?

- 1. Ear plugs/muffs..... Yes No
- 2. Goggles/face mask..... Yes No
- 3. Dust mask..... Yes No
- 4. Respirator..... Yes No
- 5. Gloves..... Yes No
- 6. Apron or gown..... Yes No
- 7. *Other Yes No

*please explain:

FIREFIGHTER/RESCUER POSITION ONLY

Are you or have you been in the past 3 years a volunteer firefighter or cadet with Montgomery County MD? Yes No

If Yes, explain:

Appendix J



**OCCUPATIONAL MEDICAL SERVICES (OMS)
EMPLOYEE REASONABLE ACCOMMODATION REQUEST FORM**

This form is to be completed by employees when requesting an accommodation or modification to a prior accommodation under the American's with Disabilities Act (ADA). Your Health Care Provider will be required to complete the ADA Medical Questionnaire which will be used to assist the County Employee Medical Examiner in evaluating your medical condition.

PART I: EMPLOYEE REQUEST

(To be completed by employee and forwarded to Disability Program Manager)

NAME: _____ TELEPHONE: _____

DEPARTMENT: _____ POSITION: _____

SUPERVISOR: _____ SUPERVISOR TELEPHONE: _____

ACCOMMODATION REQUESTED:

NOTE: The ADA does not require that a specific or requested accommodation be granted but rather that an appropriate reasonable accommodation be made to a qualified individual with a disability. The County will make all efforts to reasonably accommodate the employee in his/her current position before exploring alternative placement.

PART II: TO BE COMPLETED BY OMS:

Date request received: ___ / ___ / ___

Date of Intake Interview Conducted by Disability Program Manager (DPM):

Date medical information received: _____

If you are a MCGEO collective bargaining unit employee, do you want the union to receive a copy of this request? _____

PART III: TO BE COMPLETED BY SUPERVISOR

Department is able to provide accommodation: ___ Yes ___ No

If No, Please provide information as to why accommodation can not be granted.

Suggested Alternative Accommodation:

Supervisor Signature: _____ Date: _____

Department is responsible for accommodations under \$500.00. OHR will share expenses on accommodations greater than \$500.00.

Appendix K

OCCUPATIONAL MEDICAL SERVICES (OMS)

WORKER-ASSISTANCE REQUEST FORM

The purpose of this form is to provide an opportunity for a County employee to make assistive-requests for a medical need. The completion of this form does not adjudicate an employee as disabled nor qualifies an employee as disabled under ADA Entitlements. This form is specifically used for employees that are requesting some form of assistance in the work environment. **This is NOT an ADA Reasonable Accommodations Form. This form is intended for verifying if an employee should be provided with an assistance-request only.**

SECTION I: EMPLOYEE INFORMATION

(To be completed by employee; Signed by Supervisor; and forwarded to OMS; Attn. DPM)

NAME: _____ TELEPHONE: _____

DEPARTMENT: _____ POSITION: _____

SUPERVISOR: _____ SUPERVISOR TELEPHONE: _____

SECTION II: ASSISTANCE QUESTIONS

1) Do you claim a disability? No__ Yes__ If yes, what disability is claimed? _____

2) Do you require assistance in other environments (i.e., Home, Community, etc?) No__ Yes__

4) Upon employment with the County, did you indicate a need for assistance? Yes__ No__

5) What type of assistance are you requesting? _____

6) Are you willing to meet with the Disability Program Manager for consultation? Yes__ No__

APPROVAL SECTION:

- Does the Disability Program Manager recommend the request? Yes__ No__
- Can the Department provide the assistance-request? Yes__ No__

Supervisor's Signature: _____ Date: _____

SECTION III: ASSISTANCE DISCLAIMER

Montgomery County, conditionally, provides worker-assistance to employees who are coping with a medical condition, requesting assistance in some way. The completion of this form does not reflect automatic approval. Each request is evaluated on the basis of review of medical condition, and abilities of the employing department.

Employee Signature: _____ Date: _____

APPENDIX L. Review of the Functionality of the “Text Version” Link on the County Government’s Website

Table L-1 lists specific Montgomery County Government web pages on which the “text version” link was not working in late April and early May of this year.

Table L-1
Sample of County Government Web Pages Where
“Text Only” Version Did Not Work

Web Page	Result
County Government Home Page Links	
“Services & Info.” Page	“Text Version Under Construction”
“I Want To...” page	“Text Version Under Construction”
Office of Human Resources	
Home page	“The page cannot be displayed”
“Career” page	“Text Version Under Construction”
“Information for Applicants with Disabilities” page	“Text Version Under Construction”
“About OHR” page	“The page cannot be displayed”
“HR Resource Library” page	“Text Version Under Construction”
“EEO & Diversity” page	“Text Version Under Construction”
Office of Human Rights	
“Employment Complaint Questionnaire” page	“Server Error in ‘Human Rights’ Application”
Montgomery County Public Libraries	
Home page	“Text Version Under Construction”
“Research a Topic” page	“Text Version Under Construction”
Department of Housing and Community Affairs	
“Housing Code Enforcement” page	“Text Version Under Construction”
Department of Public Works and Transportation	
“Report a Pothole in Montgomery County” page	“Text Version Under Construction”

Source: OLO review on April 30 and May 1, 2008

Appendix M

MONTGOMERY COUNTY GOVERNMENT Code No. 00651
ROCKVILLE, MARYLAND Grade S1

CLASS SPECIFICATION**COUNTY GOVERNMENT ASSISTANT****DEFINITION OF CLASS:**

An employee in this class performs work that assists in the activities of an organizational unit and is appropriate for assignment to an employee in the customized employment program. Specific, customized work assignments are identified by a County manager/supervisor in collaboration with an employment consultant. The work is performed under the supervision of a County manager/supervisor and may also involve the presence of a job coach to provide detailed instructions and demonstrations on how the work is to be performed. An employee in this class has contact primarily with employees in the immediate work area and may have some contact with the public. Depending on the assignment, the work may be carried out indoors or outside. Some physical effort may be required.

EXAMPLES OF DUTIES: (Illustrative Only)

Opens and/or delivers mail.

Unpacks, sorts, and/or stocks supply shelves.

Makes copies.

Shreds or scans documents.

Distributes faxed documents.

Collates and/or sorts documents and other materials.

Check accuracy of computerized data against paper documents.

Accesses computerized data for purpose of validation.

MINIMUM QUALIFICATIONS:

Experience: No previous experience is required.

Education: None

Equivalency: None.

Knowledge, Skills, and Abilities:

Ability to understand and follow instructions and/or demonstrations of work processes.

Ability to meet minimum work standards as established by supervisor and employment consultant.

Ability to bend and stretch, if needed, for assigned job tasks.

MEDICAL PROTOCOL: Medical History

Class Established: May, 2007

Revised: June, 2007

CUSTOMIZED EMPLOYMENT PUBLIC INTERN

Application Procedures

- Please review the attached TASK LIST CHECKLIST.** *Each list of duties (and subsequent skills required) represents one or more potential positions for interested and qualified candidates.*
- Place a check (✓) next to each task on the list of duties that you are interested in and are able to do.** *Candidates must be prepared to demonstrate the ability to perform tasks (with or without reasonable accommodation) in order to be considered for the position.*
- Complete the attached INTAKE APPLICATION form.** *Forms that are incomplete will delay the interview process.*
- Attach a copy of your most recent resume.** *This is required by Montgomery County Government.*
- Email or Fax your complete application packet to:**
Marie Parker
Email: mparker@montgomeryworks.com
FAX: 301-933-4427 FAX
- Upon receipt of the complete application packet, you will receive a call to schedule a preliminary interview.** All first Interviews will be conducted at:

*MontgomeryWorks
Westfield South Office Building
11002 Veirs Mills Road, Ste 100 (First Floor)
Wheaton, Maryland 20902*

Should you have any questions or require additional assistance,
please contact Marie Parker at 240-283-1574.

**Montgomery County Public Intern
INFORMATIONAL INTAKE FORM**

APPLICANT INFORMATION	
NAME:	
ADDRESS:	
PHONE #:	E-MAIL:
SSN:	GENDER:
AGE:	DATE OF BIRTH:

DISABILITY CATEGORY (Self-disclosed)	
Select all that apply, circle primary	
<input type="checkbox"/> Mobility/Orthopedic/Physical Describe: _____	<input type="checkbox"/> Blind/Visual Impairment
<input type="checkbox"/> Psychiatric/emotional	<input type="checkbox"/> Speech/communication Impairment
<input type="checkbox"/> Cognitive Intellectual	<input type="checkbox"/> Learning Disability, Add, ADHD
<input type="checkbox"/> Deaf/hearing Impairment	<input type="checkbox"/> Other: _____
	<input type="checkbox"/> Not Reported

SUPPORT SYSTEM	
Who assists you when you need help? (Family, job coaching, therapy, residential, etc.)	
Name/Agency/Service:	Contact Information: (Ph/Email)
Name/Agency/Service:	
Name/Agency/Service:	

CHALLENGES/NEED HELP WITH	SOLUTION/ ACCOMODATIONS
Physical:	
Learning:	
Social:	
Communication/Speech:	
Other:	

ADDITIONAL INFORMATION

What is your mode of transportation?

Why do you want to work?

What are your ideal work hours?

Do you have any concerns about losing benefits?

SKILLS AND ABILITIES**(OFFICE USE ONLY)**

Dexterity	
Lifting	
Standing	
Math	
Reading	
Writing	
Computers (Data entry, software programs, formatting, etc.)	
Filing (Manual ability to file, alphabetical/ numeric indexing)	
Interpersonal/Customer Service/Social Skills	
Communication/Speech	
Other?	

TASK LIST CHECKLIST
Dept. of Liquor Control-Warehouse Assistant

List of Duties: JOB 1	Skills Required
<input type="checkbox"/> Load or unload cases of liquor, wine, or beer* <input type="checkbox"/> Remove broken bottles from damaged cases* <input type="checkbox"/> Wash bottles to be re-packaged* <input type="checkbox"/> Re-pack bottles in appropriate packaging*	<ul style="list-style-type: none"> • Basic reading skills and/or ability to match words & numbers • Attention to detail • Fine motor skills/manual dexterity • Ability to lift and carry 30-40lbs. • Desire to work in warehouse environment
<p>*All duties required for this position</p>	

<p>Note:</p> <ul style="list-style-type: none"> • Accessible by public transportation • Casual dress • Warehouse environment (can be noisy) • Indoor/Outdoor • Up to 18hours/week • Shared week available (not day) • 1 person per shift

Location: 16650 Crabbs Branch Way, Rockville
Salary: \$7.20/hr w/o benefits
Hours: part-time; flexible; negotiable

TASK LIST CHECKLIST
Dept. of Liquor Control-Accounting Clerk

List of Duties: JOB 1	Skills Required
<input type="checkbox"/> Open envelopes and separate items* <input type="checkbox"/> Open & stamp date mail* <input type="checkbox"/> Remove customer copy of deposit ticket* <input type="checkbox"/> File payment vouchers alphabetically* <input type="checkbox"/> File credit card information alphabetically by store name* <input type="checkbox"/> Match invoices to purchase orders by purchase order number* <input type="checkbox"/> Interdepartmental delivery to appropriate staff*	<ul style="list-style-type: none"> • Friendly demeanor • Good customer service skills • Basic reading skills • Attention to detail • Eye-hand coordination • Ability to match words & numbers • Knowledge of or ability to use letter opener • Fine motor skills • Ability to file in 4 drawer high file cabinet
<p>*all duties required for this position</p>	

Note:

- Accessible by public transportation
- Up to 10 hours/week for 1 person
- No more than 4 hours/day
- Business casual dress
- Must be available to work on Monday

Location: 16650 Crabbs Branch Way, Rockville
Salary: \$7.20/hr w/o benefits
Hours: part-time; flexible; negotiable

TASK LIST CHECKLIST
Dept. of Liquor Control-Data Entry Clerk

List of Duties: JOB 1	Skills Required
<input type="checkbox"/> Data entry* <input type="checkbox"/> Compare scanned invoice to information in database* <input type="checkbox"/> Read through list/form to ensure that information is correct (quality control)* <input type="checkbox"/> Enter correct data into system from scanned document* <input type="checkbox"/> Sort by date* <p>*All duties required for this position</p>	<ul style="list-style-type: none"> • Basic reading skills • Attention to detail • Ability to read through document to find required information • Basic computer skills • Typing accuracy (alpha/numerical) • Fine motor skills/manual dexterity • Knowledge of or ability to learn to use computer scanner

Note:

- Accessible by public transportation
- Space for 2 people per shift
- Up to 18 hours/week per person or shared possible
- Business casual dress

Location: 16650 Crabbs Branch Way, Rockville
Salary: \$7.20/hr w/o benefits
Hours: part-time; flexible; negotiable



COMMISSION ON PEOPLE WITH DISABILITIES
July 31, 2007

The Honorable Isiah Leggett
Montgomery County Executive
101 Monroe Street
Rockville, MD 20850

Dear Mr. Leggett:

On July 11 and 12, 2007, the *Montgomery County Gazette* and *Washington Post*, Montgomery County Section, respectively, carried articles regarding efforts of the County's Office of Human Resources to strengthen minority recruitment efforts. The articles stated efforts were being made to increase representation of African-Americans, Hispanics and Asians in the County, particularly in management positions. We commend you for pushing this strong effort to help the County government look more like the people it serves, but also recommend that you include people with disabilities in this effort.

While minority recruitment efforts have traditionally focused primarily on racial and ethnic minorities, people with disabilities also are a minority group or protected class, and in themselves are composed of racial and ethnic minorities. Still, 17 years after the signing of the Americans with Disabilities Act, about two-thirds of all persons with disabilities remain unemployed or underemployed.

Therefore, the Commission on People with Disabilities believes and strongly recommends that you implement County "diversity" recruitment strategies that includes people with disabilities and attracts applicants to better reflect the County's population at all levels of employment. We want the community of people with disabilities and other populations of Montgomery County to know that our government serves their population with the same zeal they use to bring equality and opportunity to all citizens. We recommend that these "diversity" recruitment strategies also apply to the recruitment of volunteers, and in attracting people to serve on boards, commissions and committees.

We thank you for considering the expansion of this minority recruitment program to be publicized as a diversity recruitment effort that attracts the "best qualified" for every position, and look forward to working with the Office of Human Resources as a source of information on disability organizations that can be directly contacted for recruitment efforts.

Sincerely,

Nelson Jackson, Chairman



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

September 4, 2007

Mr. Nelson Jackson
Commission on People with Disabilities
401 Hungerford Drive, 4th Floor
Rockville, Maryland 20850

Dear Mr. Jackson:

Thank you for your positive comments regarding my initiative to increase the diversity of the County's workforce. With a surge in retirements expected over the next five years, we have a prime opportunity now to enhance our efforts to achieve a more diverse work force responsive to all county residents. As you point out, this work force should include racial and ethnic minorities as well as people with disabilities.

Several initiatives are in place to help achieve this goal. We have implemented a new Customized Employment Initiative under a multi-department effort involving the Department of Health and Human Services, the Office of Human Resources, and the Department of Economic Development. This program is designed to hire job seekers having disabilities by creating individualized positions that meet the needs of both the job seeker and the employer. During this first year of the program, 15 nonmerit positions are funded. Through this program, we expect that many qualified individuals with disabilities will gain useful job experience and training that will help them become competitive for merit positions here and elsewhere.

We have also taken steps recently to ensure that job seekers having disabilities have easy access to the information needed to apply for County positions. Recognizing that applicants might not know how to ask for an accommodation, we added a new section to the County's career site that describes the process for requesting an accommodation during the recruitment, interview, or hiring process. We also recently installed the JAWS screen reader software in five different locations throughout the county and have conducted a review of each site to ensure the work stations are ADA compliant. This assistive technology should help ensure that persons who have low vision or are blind will have full access to job postings and other County information.

Please know that increasing the representation in County government of persons with disabilities is important to me. I am hopeful that the Customized Employment Initiative and other enhancements, such as those noted above, will help us achieve this goal. To the extent that we are successful, the County will be viewed as an inclusive and high performing culture where the skills and talents of all employees are leveraged to improve service delivery.

Sincerely,

Isiah Leggett
County Executive



COMMISSION ON PEOPLE WITH DISABILITIES
September 19, 2007

The Honorable Isiah Leggett
Montgomery County Executive
101 Monroe Street
Rockville, MD 20850

Dear Mr. Leggett:

Thank you for your letter responding to the Commission's request to include people with disabilities in the County's diversity outreach efforts. We appreciate the Customized Employment Initiative that will recruit and provide job opportunities for at least 15 people with significant disabilities. Like you, our expectation is that the participants will gain useful job experience and training that will help them to compete for merit positions here, and elsewhere. We also commend the County for adding information on how to request an accommodation on the website, and the installation of JAWS screen reader software at 5 county locations. This is a good start, but of course, we are hoping that many more opportunities will be made available to people with disabilities.

At our last Executive Committee, the Commission voted to ask that the County go beyond these efforts and recommend that the County expand and be accountable for "diversity" recruitment strategies that specifically include people with disabilities including those returning veterans, and attracts applicants and retains such employees to better reflect the County's population at **all levels** of employment. We want the community of people with disabilities and other populations of the County to know that our government serves their population with the same zeal they use to bring equality and opportunity to all citizens. We firmly believe that the County needs to lead the way in recruitment, retention, and promotion of people with disabilities in County employment. This will ensure that people with disabilities have a chance to move up, and not stop at only entry level jobs.

We strongly recommend that Department Heads be held accountable for all aspects of diversity. We further recommend that diversity recruitment strategies also apply to the recruitment of volunteers, and in attracting people to serve on boards, commissions, and committees. We recommend that you include on any application form for volunteer positions or paid employment a space to voluntarily disclose racial, ethnic, and disability information for employees and volunteers alike, and statistics gathered regarding the numbers of people with disabilities, as well as those with different racial and ethnic backgrounds, who have applied for jobs and who were hired. We request that those statistics be provided in a yearly report to your office, and to the Commission.

We thank you for considering the expansion of the diversity recruitment program so that it attracts the "best qualified person" for every position. We look forward to continuing to work with the Office of Human Resources as a source of information on disability organizations that they can be directly contacted for recruitment efforts, and on any other issues that we can be of assistance.

Sincerely,

N1-3

Nelson Jackson, Chairman

Appendix O

MEMORANDUM

July 21, 1994

TO: Jane Lawton
Special Assistant to the County Executive

FROM: Steven M. Gilbert
Assistant County Attorney *SMG*

RE: Special Hiring Authority for
Persons with Disabilities:
Legislation Needed

This memorandum will summarize what transpired at our Monday meeting with the County Executive and representatives from the Commission on People with Disabilities. It is also intended to outline amendments to the County Charter which are needed to implement the Commission's proposal, a County government program for hiring persons with severe disabilities without regard to merit system requirements.

The meeting was held as scheduled, on Monday afternoon, July 18, 1994, in Mr. Potter's office. In attendance, in addition to the two of us and the Executive, were Kermit Mohn, Chair of the Commission on People with Disabilities; Howard Jacobson, an attorney and Commission member; Judy Gilliom, a Commission member who is employed in the EEO office of the Department of Defense; and Joanna Clarke, Chief of the Disability Resources Division in the Department of Family Resources.

The meeting was requested by Commission members to discuss a proposal which has been advocated for years by the Commission, the creation of a special hiring "authority" or agency to hire in County government persons with severe disabilities. According to the Commission chair and Judy Gilliom, who is familiar with the federal program, the federal government has had legislation and regulations in place since the 1970s to hire severely disabled persons for federal jobs. A person with a "severe" disability, it was explained, has one of the following conditions: blindness, deafness, paralysis, seizures, mental retardation, or missing limbs. These persons are eligible for a special job placement program which allows them to be hired outside the normal OPM procedures, in which merit and fitness and a small number of enhancement factors (veteran's preference, for example) are used to rank and select job candidates applying for civil service positions.

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It was suggested by the Commission members, Mr. Mohn, Mr. Jacobson, and Ms. Gilliom, with the concurrence of Ms. Clarke, that a special hiring authority program could and should be established in Montgomery County, to increase disabilities community representation in the County work force and to make the County a model for local jurisdictions in the employment of persons with disabilities.

Mr. Potter said that he was interested in supporting the disabilities community and its efforts to increase employment opportunities for persons with disabilities, a position he has stated before. But he added something he has not said before, to my knowledge: he stated that he would be willing to have legislation prepared and transmitted to the County Council to establish a special hiring program, with the same general parameters suggested by Commission members. He said, and you and I also joined in this discussion, that his office would have to let the Chief Administrative Officer, the Office of Human Resources, and the County Attorney, as well as Management and Budget, examine the proposal before it could be transmitted to the Council.

One concern I raised in the meeting was the possible need to amend the County Charter, which provides for a merit system and merit system principles for the hiring of County employees. Everyone at the meeting understood that legislation was necessary to create an agency and authorize it to perform the hiring preference procedures, but most people, I think, particularly the Commission members, assumed that all that would be required would be County Council approval of a bill, presumably a one-time effort. I believe the Commission members had the impression that if a proper bill were drafted and placed before the Council, then all that would be needed was one affirmative vote, followed by Executive approval of the legislation, to put the program in place.

You and I know, however -- as does Mr. Potter, certainly -- that initiatives like the proposed special hiring authority are rarely simple to approve, even when there is substantial popular support for the proposal. In this case, which I have discussed, since our Monday meeting, with two attorneys here who are well versed in matters of personnel procedures and Charter requirements, it turns out that a Charter amendment will be needed, to authorize the County Council to amend the personnel law and regulations by establishing a hiring authority using employment criteria other than merit principles.

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Section 401 of the County Charter provides, in pertinent part, as follows

The Council shall prescribe by law a merit system for all officers and employees of the County government, except members of the Council, the County Executive, the Chief Executive Officer, the County Attorney, the heads of the departments, the heads of the principal offices and agencies, as defined by law, one confidential aide for each member of the Council, two senior professional staff positions for the Council as a whole as may be designated from time to time by the Council, three special assistant positions in the office of the County Executive as may be designated from time to time by the County Executive, special legal counsel employed pursuant to this Charter, and members of boards and commissions and other officers authorized by law to be appointed to serve in a quasi-judicial capacity. . . . The merit system shall provide the means to recruit, select, develop, and maintain an effective, non-partisan, and responsive work force with personnel actions based on demonstrated merit and fitness. . . .

(Portions omitted and emphasis added.)

You can see, in reading §401, that it starts out by establishing that all County positions are to be covered by "a merit system," except specific, named officer or agency head positions. The section then provides, in the omitted portion, that officers and employees covered by a collective bargaining agreement may be excluded from the merit system, but "only to the extent that such provisions are subject to collective bargaining." It is clearly the preference of the Charter to include all employees under the merit system, whether or not they work in a collective bargaining unit. Near the section's end, it is provided that the "merit system" is to provide the "means" for employee recruitment and selection, among other matters, in order to have and maintain "an effective, non-partisan, and responsive work force." Then it is stated that "personnel actions," meaning government actions to hire, promote, transfer, discharge, or dismiss employees, are to be "based on demonstrated merit and fitness."

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Section 401 in its present form clearly mandates use of the merit system and merit system principles in all employee recruitment and selection, except for the designated positions excluded from coverage in the first sentence. In order, then, for the County Council to be authorized to establish a program for hiring persons, such as persons with severe disabilities, on a basis other than merit, so that the "personnel actions" of selecting and hiring these persons are based on factors other than "demonstrated merit and fitness," the Charter must be amended. That can be done, if the Council and Executive are in agreement that establishment of a special hiring authority is good government policy for Montgomery County, by amending §401 to add a proviso permitting hiring of employees with severe disabilities by use of standards and criteria other than "merit and fitness."

Perhaps the simplest and most direct way to amend §401 is to add a phrase to the last sentence quoted above, so that it reads (with emphasis placed on the added language, and deleted language in brackets) as follows:

Except as provided in §412, the [The] merit system shall provide the means to recruit, select, develop, and maintain an effective, non-partisan, and responsive work force with personnel actions based on demonstrated merit and fitness.

The new §412, at the end of Article 4 of the Charter, which concerns the merit system and conflicts of interest, would have general, authorizing language, perhaps as follows:

The Council may establish by legislation a special hiring authority to permit the recruitment, selection, and hiring of persons with disabilities in the County work force, with personnel actions based on factors other than merit system principles.

With amendments like these in the Charter, the Council would be authorized to establish a special hiring authority whose employment actions would not be bound by merit system requirements.

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