

**Disability in America: Past and Future**

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### **Abstract**

If you were born within the past 20 years, you probably think of a lot of things as normal. Laptops, smart phones, and wireless internet all used to be things of science fiction. There is another thing that you probably have not considered though: disability employment rights. While it may seem fairly normal to have a disabled manager, software engineer, or journalist there is a long history behind the fight for disability employment rights in the US that continues on today. This paper seeks to explain the history of disability employment in America beginning in 1776 up until the Obama administration. From there, this essay will go on to discuss the recent goals in the federal government for disability employment and potential future changes the federal government could make to create a more inclusive workplace.

## History

In colonial America, disabled individuals were almost entirely discarded and ignored. Public officials gave no attention to the disabled unless they posed a threat to public safety or stability. Individuals with mental disabilities, for example, were often thrown out of town or imprisoned if their families were unable to “care” for them (Daen, 2019, cited as Deutch, 1938). Although some legislation recognized these individuals such as the 1776 Act to Provide Settlement, which gave soldiers that were severely injured during the American Revolution a form of disability benefits, and the passage of HR 806, which created the world’s first college for the blind, deaf, and mentally disabled (Timeline of Disability, n.d., paras. 2, 4), disabled citizens were relegated to the shadows for the most part.

During World War I however, this began to change. Due to the sudden influx of young men with disabilities as a result of combat in Europe, the federal government was no longer able to neglect the disabled community. This resulted in the passage of the Smith-Sears Veterans Rehabilitation Act in 1918, which aimed to give soldiers disabled during WWI vocational training and employment opportunities (Library of Congress, n.d., para. 1). In addition to the Smith-Sears Act, the 1920 Smith-Fess Act created a similar program to help disabled citizens that were not part of the military (Colorado State University, n.d., para. 5). World War II created another spike in the number of young men with disabilities, creating more demand for rehabilitation and employment programs (Anti-Defamation League, n.d., para. 6). This increased pressure led to the federal government passing legislation like the Barden-Lafollette Act, which gave vocational training to individuals suffering from blindness and mental disorders (Timeline of Disability, n.d., para. 15).

While there was other legislation passed following WWII, most laws up until the 70s aimed at improving the lives of disabled individuals by providing them with training and employment opportunities in the private sector. The Rehabilitation Act of 1973, however, made it illegal for any organization receiving federal money to discriminate against disabled individuals in the workplace, making it the first piece of federal legislation regarding disability employment rights to refer to the public sector (Department of the Interior, n.d., para. 3). Section 504 of the Rehabilitation Act, unfortunately, did not begin being enforced until 1977 after disabled community members began a series of sit-in-protests inside of federal buildings (Cone, n.d., full article). In 1990 however, these rights were reaffirmed and expanded by the Americans with Disabilities Act which banned all governments, private employers, employment agencies, and unions from discriminating against individuals with disabilities (EEOC, n.d., para. 10).

Similar to the legislation passed after WWI and WWII, legislation through the 70s, 80s, and early 90s had a new mode of operation. While there was still legislation that focused on creating training and employment opportunities outside of the federal government such as the Job Training Partnership Act of 1982 (Congress.gov, 1982, para. 3), this new wave of laws attempted to empower disabled individuals primarily by decreasing discrimination in the workplace. In the mid 90s, however, affirmative action legislation and programs would begin being extended towards the disabled community. In 1995 the Work Recruitment Program was expanded from its Navy Origins to the entire federal workforce, giving disabled college students a direct avenue to employment in the federal government.<sup>1</sup> Three years later, President Clinton created the Presidential Task Force on Employment of Adults with Disabilities to review federal policy and make recommendations about changes in order to “bring adults with disabilities into

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<sup>1</sup> There are two sources for this: (Timeline of Disability, n.d., para. 62) and (Workforce Recruitment Program, n.d., entire page).

gainful employment at a rate that is as close as possible to that of the general adult population” (Exec. Order No. 13078, 1998). Not only did this result in the creation of the Office of Disability Employment Policy (Office of Disability Employment Policy, n.d., para. 6), but the Force also influenced Executive Order 13163 which explicitly stated that federal government offices and agencies needed to create recruitment and hiring plans in order to increase disability employment within the federal government. It also set a soft goal of hiring 100k disabled individuals within five years by 2005 (Exec. Order No. 13163, 2000).

### **Recent Goals**

When it comes to evaluating the federal government’s efforts at increasing disability inclusion there is a myriad of legislation that attempted to increase disabled accessibility or reaffirmed commitments to diversity, such as Executive Order 13985 (Exec. Order No. 13985, 2021). However, the easiest way to look at the federal government’s success is by checking federal government employment data against goalposts that were set in executive orders. Unfortunately, since Executive Order 14035 (Biden’s Most Recent Executive Order on the issue) specifies that each agency should set its own goals within 120 days of the order being signed (Exec. Order No. 14035, 2021), it is impossible to say how much change Order 14035 has brought. With that in mind, there are two ways we can look at disability employment in the federal government. First, we can see if the federal government hit the 100k hire goal it had originally set in Executive Order 13163 and later reaffirmed in Executive Order 13458 (Exec. Order No. 13458, 2010). Then, we can see if the percentage of the federal workforce that is disabled reflects the percentage of the total working US population that is disabled.

In terms of hitting the 100k mark, it does not appear that raw hiring data on disabled workers is available prior to 2010; however, data on the number of employees with targeted disabilities can be found on the EEOC's website. Based on this data, it appears that the US completely failed at fulfilling Executive Order 13163. According to the EEOC's 2009 annual report, between FY2000 and FY2009 the number of full time employees with a targeted disability in the federal government actually decreased from 27,231 to 24,663.<sup>2</sup> This means that over a 10 year period, the federal government saw a 9.43% decrease in targeted full time disability employment (EEOC, 2009, p. I-19). While this does not reflect turnover and the entire disabled population, the overall decrease in the number of full time disabled employees makes it difficult to believe that the federal government hit its 100k goal within five or even ten years. Even if you take the 2008 recession into account, the data collected in this report shows that the number of employees with a targeted disability had been steadily decreasing prior to the recession (EEOC, 2009, p. I-21). As a percent of the total federal workforce, this means that individuals with a targeted disability only represented 0.88% of the full time federal workforce with only 11 agencies having a targeted disability representation rate of over 2%, a goal which was set by the EEOC (EEOC, 2009, p. I-19).

This issue is something that the Obama administration actually addressed in executive order 13584, specifically mentioning the low representation rate of disabled individuals while renewing the 100k hiring goal. Luckily, this order actually tells us that approximately 5% of the entire federal workforce had a disability at time, giving us a better starting point than the previous set of statistics (Exec. Order No. 13584, 2010). Looking at the EEOC Annual Report on the Federal Workforce for FY2015, we can see that the federal government made drastic

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<sup>2</sup> Targeted disabilities include: deafness, blindness, missing extremities, partial and complete paralysis, compulsive disorders, "mental retardation" (later renamed to mental disability), mental illness, and distortion of limb and/or spine (EEOC, 2009, App. I - 9).

improvements with disabled individuals representing a total of 8.49% of the full time federal workforce. Unfortunately, individuals with a targeted disability only represented 1.08% of the full time federal workforce; which is still below the 2% goal that was set by the EEOC (EEOC, 2015, p. 22). This 8.49% rate, however, actually reflects and is even better than the estimated 7.66% of the working age population that is disabled in the US (Bureau of Labor Statistics, 2016, entire document);<sup>3</sup> and if you include part time workers into the equation, the federal government actually hit the 100k hire mark with approximately 14.41% of the entire workforce being made up of disabled individuals (US Office of Personnel Management, 2016, p. 1).

### **Future Objectives**

While the federal government has come a long way in terms of hiring disabled individuals, it still falls short in some ways. If the goal of the federal government is to create a more inclusive environment, one major issue that the current and future presidential administrations need to address is the lack of disabled representation in authority positions, particularly with regard to presidential appointees. Although the Biden administration has made several declarations of commitment to the disabled community, as of July 31st only 3% of his appointees were individuals with disabilities (Shirvman, 2021, para. 28). This problem is not just limited to the president appointees; it is a problem in the US in general. An analysis conducted by the Wallstreet Journal in 2019 showed that only 6% of Fortune 500 companies had CEOs that were under the age of 50 with a median age of 58 (Cutter, 2019, Paras. 3, 5). Yet despite the fact that this age demographic should be more prone to disabilities, John Kemp notes,<sup>4</sup> there are not many openly disabled CEOs. Kemp attributes this to the fact that people with a disability may be

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<sup>3</sup> Defined as ages 16-64.

<sup>4</sup> John Kemp is the President of The Viscardi Center, a non-profit that assists disabled individuals (The Viscardi Center, n.d., whole page).

perceived as weak and unfit to lead, which is why even if there are CEOs that have disabilities they are not open about it (Kemp, 2020, Paras. 3-5). While prior to the Biden administration data on presidential appointees had never been collected or made public, which in and of itself is an accomplishment, it is still only the first step in remedying the problem. Having leaders in the government that are openly disabled would be a massive signal to the rest of the workforce that it is normal to have a CEO, VP, or even just a shift manager that's disabled. The solution in this case is simple: the federal government needs to appoint more qualified disabled leaders.

Another issue that the federal government needs to be weary of is the retention rate of disabled employees. While the federal government has done a great job at hiring more disabled individuals, there is still an issue with their retention rate. An analysis that was conducted by the US Government Accountability Office found that only 39% of disabled employees stayed in their job after a year of employment compared to the 43% of non-disabled employees that remained after a year (Government Accountability Office, 2020, para. 3). While this demonstrates that the federal government already has a problem with retention rates, this also shows that whatever issues that exist are compounded for workers with disabilities. The office actually stated in its study that part of the reason this problem has not been solved yet is due to a lack of data. In particular, the office noted that the Office of Personnel Management did not track retention rates of disabled employees. The study therefore recommended that the organization begin tracking retention data and publishing it digitally (Government Accountability Office, 2020, para. 8). While the Office of Personnel Management has complied with this recommendation, it still has not published its findings to the public and is still working on a review of 2017-2019 retention data (Government Accountability Office, 2020, para. 15). The Government Accountability Office also made five other recommendations, requesting that the



DOJ, SSA, and Small Business Administration begin implementing policies to track the successfulness of reasonable accommodations and the effectiveness of specialized training on HR managers. Unfortunately, none of these five recommendations have yet been met (Government Accountability Office, 2020, paras. 16-25). While it is unclear what specific practices need to be deployed in order to increase retention rates, the first and most obvious step that federal agencies need to take is tracking data and reviewing current programs. Given that this is something that the Government Accountability Office is already recommending, this idea is not something groundbreaking or from left field; this recommendation is simply asking the federal government to complete what it already started.

### **Conclusion**

The fight for disability rights has been a long one that continues on to this day. While the US has made great strides to give the disabled community more rights, there is still more work to be done. The federal government began with targeted educational and vocational training programs and then later civil rights. In the past two decades the government has made great progress in hiring more people with disabilities, but now it is time to make sure that they stay employed and allow them to start leading the country.

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