

**The Impact of the Americans With Disabilities Act (ADA)
On the Employment of Individuals
Who are Blind or Have Severe Visual Impairments:**

Part I: Elements of the ADA Accommodation Request Process

Project Director: John Jay Frank, MRC, CRC

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Mississippi State University
Rehabilitation Research and Training Center
on Blindness and Low Vision
P. O. Box 6189, Mississippi State, MS 39762
(662) 325-2001, TTY: (662) 325-8693

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Introduction

The employment rate for people with severe disabilities remains low despite years of effort by policy makers. In response to this, the National Institute on Disability and Rehabilitation Research (NIDRR) established a research priority to investigate the impact of several key laws on the employment outcomes of people with severe visual impairment. In its Long Range Plan (LRP), NIDRR called for research into the role and potential of the Americans With Disabilities Act (ADA) in increasing job opportunities for persons with severe disabilities (NIDRR, 1999). Therefore, one part of the legislation investigation conducted by the Rehabilitation Research and Training Center on Blindness and Low Vision (RRTC-BLV) is a multi-phase project to examine the effects of the ADA on the employment opportunities of people with severe visual impairment.

Overview

This report begins with a brief description of the population, the problem, and the proposed research project. A short overview of the ADA is then presented which highlights salient features of the law and the technical guidelines. Next, some of the approaches that have been used or suggested as appropriate means to evaluate the ADA are presented in the literature review, along with material that indicates how employers, rehabilitation professionals, and persons who have severe disabilities view the ADA accommodation request process. Following this, the results of studies of the ADA complaint process are mentioned. A summary and evaluation of the literature concludes that section. The Method section is next, followed by the Results, Discussion, and Conclusion section.

The Population and the Problem

The American Foundation for the Blind (AFB) estimates there are 10

million people in the United States who are blind or visually impaired (AFB, 2001). Furthermore, approximately 70% of working age persons who are legally blind are unemployed (Kirchner, Schmeidler, & Todorov, 1999). The chief barriers to employment for persons with severe visual impairment are the attitudes of employers about blindness, the difficulty finding and accessing transportation, discrimination in hiring, the inability to read print material, and difficulty locating information about potential jobs (Crudden, McBroom, Skinner, & Moore, 1998). The impact of the ADA on those statistics or on those barriers is unknown. The number of persons with severe visual impairment who have ever requested employment-related accommodation or barrier removal is also unknown.

A three-part project was developed to help vocational rehabilitation (VR) professionals, people with severe visual impairment, and employers better understand the ADA accommodation request process. Phase 1 of the project was an interview study of 7 to 10 individuals from those three groups. The purpose was to investigate the following question:

1. (a) What do individuals who are blind, VR counselors, and other stakeholders identify as the salient information needed for individuals who are blind or severely visually impaired to request a job accommodation; and (b) What are the major factors (e.g., workplace culture, cost and magnitude of accommodation) influencing the likelihood of individuals with severe visual impairments requesting and receiving a job accommodation?

Phase 2 of the project will utilize a survey, created from the findings of Phase 1, with 150 to 200 people with severe visual impairment to answer the following question:

2. What are the experiences of individuals who are blind with the job accommodation request process (e.g., types of accommodations requested, cost of accommodations, barriers, strategies to overcome

barriers, request success, context of work environment) and what can be learned from those experiences?

Finally, for Phase 3, 10 to 15 individuals, from the above survey sample, who represent a breadth of experience with accommodation requests (different types of accommodation) in a variety of employment situations (different types of entities), and some who are unemployed, will be interviewed to answer the last research question.

3. Among individuals who are blind and have experience with the accommodation request process, what perceptions and knowledge of the process do they have that could be utilized by other blind individuals?

This project follows a process recommended by both national and international leaders in the rehabilitation profession. The International Conference on World Wide Disability Employment Policy, a project of the Independent Living Research Utilization center (ILRU) recommended a strategy also touched upon in NIDRR's LRP: to solicit the comments of people with disabilities and to survey people with disabilities (ILRU, 2002; NIDRR, 1999). The process is enhanced because the people contacted for this project have a well-defined disability (blindness) and well-defined accommodation needs so that examining the law's impact is not overshadowed by a debate over who and what is covered by the ADA.

This research report describes the findings from Phase 1, the investigation into the factors that effect the ADA accommodation request process. One goal of this phase was to create a draft of a survey tool to be used with people who have a severe visual impairment (see Appendix B). That survey will be developed further, pilot tested, and administered in Phase 2 to collect data on the impact of the ADA accommodation request process on the employment of individuals who are blind or have a severe visual impairment. Phase 1 was accomplished by conducting an extensive literature review and by interviewing people who have experience with the ADA accommodation request process related to employment for persons

with severe visual impairment. Interviews were conducted with people who are blind, rehabilitation professionals, and with recruiters for large national employers that are covered entities as defined by the ADA.

The Americans With Disabilities Act

The ADA is "An Act to establish a clear and comprehensive prohibition of discrimination on the basis of disability" (Preamble, ADA, 1990). The ADA prohibits discrimination; it does not mandate employment. The Job Accommodation Network (JAN) ADA overview can be found at <http://www.jan.wvu.edu/links/adasummary.htm>, and is included in Appendix A of this report, along with the Congressional findings that led to the passage of the law. The information on the JAN web site includes, the ADA Handbook with the regulations for each of the five titles of the ADA, the Technical Assistance manuals for each title, Supreme Court rulings on ADA cases, accessibility guidelines, and definitions. The full text of the ADA is available at <http://www.usdoj.gov/crt/ada/pubs/ada.txt>.

The Equal Employment Opportunity Commission (EEOC) points out that Title I, Employment, requires that "An entity covered by the ADA must make reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability unless it can show that the accommodation would impose an undue hardship on the business." (EEOC, 1992, section 3.1). The employment provisions of the ADA have applied to employers of 15 employees or more since 1994. Title II, Public Services, includes public transportation systems, such as public transit buses. These must be accessible to individuals with disabilities. State and local governments are covered by the ADA regardless of size. The provisions in Title III, Public Accommodations and Services Operated by Private Entities, apply to all sizes of businesses (JAN, 2002).

The EEOC calls provision of reasonable accommodations a fundamental aspect of the ADA (EEOC, 1999a). One form of discrimination defined in the ADA is the failure to provide accommodation. This aspect of the ADA may be the most observable and therefore the most amenable to research. The ADA states, in Section 102, (5)(A), "the term "discriminate"

includes not making reasonable accommodations . . ." (ADA, 1990). The definitions in Section 3, state, "As used in this Act: (1) The term "auxiliary aids and services" includes . . . (B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments; C) acquisition or modification of equipment or devices; and (D) other similar services and actions." The definitions in Section 101, Title I, Employment, state "As used in this title: (9) The term "reasonable accommodation" may include (A) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and (B) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities."

The ADA accommodation request process generally begins with a request for an accommodation because employers are only required to accommodate a disability they know about. If an applicant or an employee has a disability that is readily identifiable, which for this study means a person who obviously has a severe visual impairment, the employer may be the first to ask the person if he or she can perform the essential functions of a job with or without an accommodation. In addition, an employer may ask for documentation of an individual's functional limitations in support of a request. A request does not have to be made in a specific format, such as a written note, or contain special language, such as the words "ADA," or "accommodation." It only needs to indicate that there is a barrier to applying for, or performing a job due to limitations caused by an impairment. After this, a discussion between the employer and the employee or applicant should take place to find out what, if any effective accommodation would help. There is no set procedure to follow, such as having a special office or department for handling requests. The accommodation provided does not have to be the specific one requested, though the employee's or applicant's request should receive the primary

consideration. If the employer and the requester cannot determine what would be an effective accommodation, the employer can seek technical assistance from other sources, such as the EEOC, or rehabilitation agencies, or from disability organizations. If the covered entity can receive funding for the accommodation from another source, such as a state VR agency, it may not claim the cost is an undue hardship. The wage or salary of the applicant or employee cannot be a consideration in determining if the cost of an accommodation makes it an undue hardship (EEOC, 1992; 2003).

When considering the impact of the ADA on employment, it is tempting to think the focus is only on Title I. Title I mandates, among other things, that employers provide reasonable accommodations for their employees or job applicants. However, the entire ADA can be involved when requesting accommodation leading to, or related to employment. Public Services, Title II, such as State certification or licensing exams and access to public transportation systems may play a role in employment, as do public accommodations. For example, Title III affects anyone who uses a restaurant or hotel for business purposes. Although no one who is deaf and blind was interviewed for this study, Title IV, Telecommunications, could pertain to someone seeking employment who is both deaf and legally blind. Finally, Title V, Miscellaneous, prohibits coercing, or threatening, or retaliating against people with disabilities or those attempting to aid them in asserting their rights, and thus affects the right to request accommodation. The ADA is an integrated whole, not simply the sum of unrelated parts.

What This Study Does Not Examine

Discussions of the ADA are often directed toward the question of the definition of disability, or who is covered by the law (Wells, 2001). Another question frequently raised is whether a request represents an undue hardship to an employer. Those issues are not the focus of this study. The National Council on Disability (NCD) (1996) noted that the ADA's regulations, unlike Section 504 of the Rehabilitation Act of 1973 as

amended, do not make undue hardship part of the definition of reasonable accommodation. Under the ADA, undue hardship may be a defense to an accusation of the discrimination of not providing an accommodation. Claiming a person is not covered by the law may also be a defense to a charge of discrimination. This project focuses on the request process, not the defense against requests. The informants in this study have a clearly defined disability covered by the law (blindness). They use readily achievable, reasonable accommodations mentioned in the law, in situations that are not now being contested by complaints or lawsuits.

Requesting accommodation is an observable, researchable aspect of the ADA that may provide the best indication of how the ADA is affecting employment opportunities. However, a fulfilled accommodation request does not mean someone was hired or retained employment, and it should not be confused with receiving an accommodation from an employer. The ADA request process is only one of several ways of being accommodated on a job or when seeking employment. For example, a person may provide his or her own accommodation instead of receiving it from an employer. An individual may receive help as a client of a private or public agency such as the Veterans Administration or a state VR agency. Some of the funding for accommodations for an individual may come from the Social Security Administration (SSA) Ticket to Work program and be provided by a VR agency or other provider of rehabilitation services. Work-related accommodation might result from programs funded under the Workforce Investment Act, funded in part by the Department of Labor (DOL). Access may result from accommodations already being in place because of an entity's compliance with Section 508 of the Rehabilitation Act Amendments of 1998, which prohibits federal agencies from procuring, developing, maintaining, or using electronic and information technology that is inaccessible to people with disabilities. An individual with a disability may not know who should, or who has paid for an accommodation. Simply considering the possession of, or the provision of accommodations will not always reveal how the ADA accommodation request process is functioning.

Literature Review

Evaluating the ADA

How best to evaluate the ADA is still open to debate. Several authors suggest evaluating the impact of the ADA through the use of secondary, global measures (Bishop & Jones, 1993; Brown, 1993; Collignon, 1997). For example, Collignon (1997), the former president of Berkeley Planning Associates, which conducted the largest study of Section 503 of the Rehabilitation Act of 1973, asserted that the most desirable indicators to use for evaluating program and policy effects are those based on data that are routinely available at little cost. He suggested using employment statistics, Social Security Disability Insurance (SSDI) statistics, or other easy to gather, or already gathered statistical data as indicators of the effects of the ADA.

Based on the above approach, Holmes (1994), Lee (1996), Smolowe (1995), and Wells (2001) suggested the ADA is not increasing employment opportunities for persons with severe disabilities. They reported that the rate of employment of persons with disabilities has decreased since the passage of the ADA. Burkhauser, Daly, and Houtenville (2000) looked at how persons with disabilities, as defined by the Current Population Survey (CPS), fared, compared to persons without disabilities, for the entire 1990 - 1999 business cycle. These researchers found that the income level for persons with disabilities failed to keep pace with that of persons who were non-disabled. Further, they found that during the same period, the employment of men and women with disabilities steadily declined. However, Dickerson, Smith, and Moore (1997) pointed out that the decline in labor force participation by persons with disabilities, to the present 30% to 35% level, began in 1970 when it was at a high of 41%. This trend began before the Rehabilitation Act of 1973 or the ADA went into effect.

Kirchner (1996) noted that people used varied and unclear definitions when self-reporting their disability and its effect on their work status in

response to the CPS. This makes it an unreliable indicator of the effects of the law. People who were accommodated may no longer consider themselves disabled. Further, Kirchner (1996) suggested that if there was a decline in employment rates, it may have been greater without the ADA, The ADA may be helping individuals without affecting aggregate statistics.

A National Organization on Disability (NOD) survey found an increase in employment from 46% in 1986 to 56% in 2000 among those who reported being able to work despite their disability or health problem (NOD/Harris, 2000). The NOD survey did not include questions on accommodations or requests. Thus, it is not known whether the increase in the rate of employment is due to anyone having received accommodation, due to other access changes required by the ADA, because a disability did not interfere with working, or because of an increased need to work.

Data collected on the need for accommodations and the availability of accommodations suggest another source of information on the potential effect of the ADA on the employment status of persons with severe visual impairment. According to the National Health Interview Survey Supplement on Disability (NHIS-D, 1994-95), the number of people who self-reported using telescopic lenses was 158,000. Also, 59,000 reported using Braille, and 68,000 reported using readers. In addition, 130,000 reported using a white cane, 34,000 reported using special computer equipment, and 277,000 reported using other vision technology for a total of 726,000 users of accommodations for vision loss (National Center for Health Statistics, 2001). Dr. H. Stephen Kaye, research director of the Disability Statistics RRTC, at the University of California, San Francisco, examined the NHIS-D for 1994 and 1995. He found that for employed persons with visual impairment who needed accommodation, 39% reported they had not been accommodated (personal communication, February 3, 2000). This is greater than the 30% who reported not being accommodated in the study of the Rehabilitation Act of 1973 (Berkeley Planning Associates, 1982).

Another potential measure of employers providing accommodations per the ADA request process is the rate at which employers use the tax credits created as incentives for hiring and accommodating persons with disabilities. However, this may not give an accurate indication of the level of ADA accommodation because taking the tax credit is not mandatory and such tax credits only apply to employers with 15 to 30 employees. That size of employer only represents a small segment of the economy. The General Accounting Office (GAO) examined IRS data and found that only a small proportion of corporate and individual taxpayers with a business affiliation use the two tax credits that are available to encourage the accommodation of workers or the removal of barriers (GAO, 2002). The GAO noted the concern that some of those who use the tax credits would have hired persons with disabilities anyway. The disabled access credit allows a maximum \$5,000 tax credit per year to help small businesses provide accommodations to customers and employees. In 1999, only 1 out of 680 corporations utilized the access tax, and only 1 out of 1,570 individuals with a business affiliation did so. The barrier removal deduction allows up to a \$15,000 tax credit per year to make businesses and transportation vehicles more accessible, but there is no data on how this barrier removal tax credit is being used. The GAO speculated that tax incentives are under-utilized because employers do not know about the tax credits, and further, suggested there is a need to substantially increase the amount of the credits. Another suggestion to increase participation in the program is to extend the credits to firms with more than 30 employees.

A different approach to evaluating the ADA was suggested by Burris and Moss (2000). They noted that the evaluation of the effects of the ADA will vary depending on the researcher's understanding of the purpose of the law. Certain measures will be employed if the purpose of the ADA is understood to be improvement in the overall socioeconomic status of people with disabilities. Different measures are called for if the purpose is understood to be only what the law states, which is the elimination of certain types of discrimination. Burris and Moss believe that the evaluation of the ADA's effect on discrimination is possible by assessing employers'

compliance with the law, and/or by assessing the reliance on the law by persons with disabilities. The information needed is not only if and how covered entities comply with the law, but if and how persons with severe disabilities rely on the ADA for employment-related accommodations.

One form of reliance on the ADA by persons with disabilities is to request an accommodation or barrier removal. However, there are very little data on how widely or effectively the ADA request process is utilized. Baldrige and Veiga (2001) felt the ADA accommodation request process was underutilized and that this contributes to under accommodation. They further suggested that this under accommodation is a barrier to equal employment opportunities. Moore and Wolffe (1997) noted that people with severe visual impairments who do not ask for the accommodations they need experience a loss of productivity and employment. Some of the reasons suggested as to why a person would not ask for this help are: the individual's skill level and frustration level, the cost and time required, and personal preferences (Luxton, Bradfield, Maxson, & Starkson, 1997).

Employers' Perceptions of ADA Accommodation

Bruyère (1999) examined employers' preparedness to accommodate. Of 1,402 human resource departments surveyed, 82% reported they were making existing facilities accessible to employees with disabilities, 79% were more flexible with their human resource policies, and 67% reported they had restructured jobs or modified work hours. The study did not report how the preparedness affected employees or job seekers with severe disabilities. Compliance may have occurred, but reliance is unknown.

Waters and Johnson (2001) surveyed 87 firms in Minnesota on their awareness of the ADA and its impact. Larger companies were more aware of the ADA than smaller firms. Of all the firms, 3% said they had been the target of legal action based on the ADA, and 74% reported having made some accommodations. Of the 47 companies covered by the ADA, 26% reported they had made no accommodations, 9% said they had provided

readers or interpreters, 23% said they provided no training on the ADA, and 38% reported that materials on the ADA had been made available.

Hernandez, Keys, and Balcazar (2000) examined surveys of employers and suggested it has become socially appropriate for employers to espouse positive global but superficial attitudes toward the employment of persons with disabilities. In the surveys Hernandez, et al. reviewed, attitudes were positive toward hiring persons with disabilities, but behavior did not match attitude. An entity covered by the ADA is not likely to say that it is not doing anything to accommodate people with disabilities, or that it is ignorant of the process, since such statements could reveal a violation of the law (Senge & Dote-Kwan, 1998). Colker (2000) suggested employers are savvy enough to avoid saying they did not hire someone because he or she had a disability, when the disability would not prevent that person from doing the job. Batavia and Schriener (2001) felt that employers who are willing to comply with the ADA are doing so, and those who do not want to comply know how to avoid compliance by simply concluding that a person with a disability is not the most qualified job applicant. Batavia and Schriener noted that people with disabilities may, in fact, not be the most qualified; it is just an assumption of the ADA that discrimination, such as not providing accommodation, is their only, or their main barrier to employment.

Several studies indicated that employers believe persons who are blind or have severe visual impairments are more expensive and difficult to accommodate (Berkeley Planning Associates, 1982; Combs & Omvig, 1986; Lee, 1996). In a study of Section 503 of the Rehabilitation Act of 1973, employers indicated that accommodations for persons who were blind and for those using wheel chairs were the most expensive and extensive to make (Berkeley Planning Associates, 1982). Gilbride, Stensrud, Ehlers, Evans, and Peterson (2000) found that the employers they surveyed were least likely to consider hiring people who had severe visual impairments, or mental illness, or developmental disabilities. JAN reported that two thirds of accommodations cost less than \$500 and more than half of the 421 employers who responded to the survey item reported

benefits in excess of \$5,000 as a result of providing accommodation (JAN, 1999). However, those figures were based on accommodations for people who are employed, not people who are unemployed and seeking work.

There is a great range in the costs of aids used by people with severe visual impairment. A slate and stylus can cost \$10 whereas a computer note taker may cost between \$4,000 and \$6000. A good magnifying glass can cost \$50, and a CCTV may cost \$3,000. The cost of a computer screen enlargement program may range from \$400 to \$600 and a computer screen reader may cost between \$900 to \$1,200 (see cost estimates at www.afb.org). A large screen, 21" CRT computer monitor may cost \$350, while a dual input 21" LCD computer monitor may cost \$2,000.. A "qualified reader" may be a person who occasionally gives a few minutes help, or a reader may be a full-time paid position.

Rehabilitation Professionals' Perceptions of ADA Accommodation

Though this group is not mentioned by Burris and Moss (2000), it may be possible to evaluate the compliance with, and the reliance on the ADA by examining the experiences of the rehabilitation professionals who work with both people with disabilities and with employers. For example, a group of VR counselors in a focus group study on job placement of people who are blind agreed that, "They want employers to feel that it is not more difficult to hire a blind person than to hire a sighted person" (Young, 1996). However, as already noted, employers may know from experience, or believe that it *is* more difficult and/or more expensive to hire a person who has a severe visual impairment. Chirikos (1999) also raised the cost factor. He suggested that employers will accommodate persons requiring the least expensive accommodation first, and he believed that workers know this and will moderate their requests accordingly. Young (2000) believed that employers fear that someone requesting a "reasonable accommodation" is asking for an open-ended commitment to an unknown amount of money. He felt employers want to know exactly what their expense will be, so as to avoid signing a blank check if they hire a person with a disability.

Rehabilitation professionals' perceptions of the ADA per se have not been surveyed, but the law has been in affect for 13 years. Therefore, it seems reasonable to infer what these professionals believe about the effectiveness of the ADA from their suggestions as to the best practices for job placement. Gilbride, Stensrud, Vandergoot, and Golden (2003), in a focus group study, examined the culture of organizations and found a noticeable difference between those that hire and accommodate people with disabilities and those that do not. The authors suggested that VR counselors focus their placement efforts on employers that do hire and accommodate, and focus their educational efforts on the ones that do not. That study, though not about the ADA, suggests it is possible to recognize employers who might not be willing to provide accommodation. The advice the authors offer to counselors, to devote their placement efforts to the organizations that hire and accommodate people with disabilities, seems to indicate the belief that either persons with disabilities are not qualified to do those other jobs, or that the ADA is not effective in opening heretofore closed doors at this time. The suggestions in that study seem to reflect the belief that people with disabilities must stay in the ghetto, i.e., a limited work environment, until educational efforts succeed in creating equality of opportunity in places where the ADA has not yet changed hiring practices.

Again, although the following sources do not directly address the ADA, it is possible to infer the opinion of employment specialists for people with severe visual impairment concerning the effectiveness of the ADA by considering their published suggestions on the best practices for finding employment. These examples indicate the expectation of encountering discrimination that has not yet been corrected by the ADA. Young (1999) advised job seekers to pay attention to blindness stereotypes, to be prepared to deal with them, and to discuss their accommodation needs during the initial job interview. Wolffe (1999a; 1999b) suggested that job seekers with severe visual impairment bring up the issue of how they will handle print access and transportation to work, also before a job is offered. The inference can be made here that these authors believed that the ADA has not affected employers' perceptions that being blind interferes with or

prevents performance of job functions. In addition, Wolffe (1999a, p. 112) wrote, "If coworkers provide assistance with reading, it then falls to the visually impaired worker to return the service in some way. For instance, he or she may take the sighted worker's telephone duty periodically." In the same vein, Young (2000, p. 47) wrote "Consider sharing the cost of accommodation between the prospective employee, the business, and a vocational rehabilitation agency." These suggestions recommend placing a burden to pay for the accommodation on the person with the disability, either with money, or with service, as though an accommodation were a form of job sharing. However, Frank (2002) pointed out that the ADA and the Technical Assistance guidelines prohibit putting any burden for reasonable accommodations on the person with a disability. Such practices may be in accord with federal regulatory guidelines (34 CFR 361.53, 2001) concerning VR counselors seeking comparable services and benefits if the entity is not covered by the ADA, or if the employer claims the accommodation would be an undue hardship. Further, such advice may be based on experience with the best ways to obtain employment, but these placement specialists do not make explicit the kind of discrimination, whether prohibited by the ADA or not, that they believe still occurs that makes their advice the best course to follow. What seems to be implied is that employers feel accommodations cost too much, and/or that the ADA is not yet effectual in eliminating disability discrimination.

Chubon (1992) pointed out that conflicts in the negotiation process for accommodation could create stress, burnout, and ethical dilemmas for rehabilitation counselors. He notes, however, that counselors have no choice, they cannot avoid this process and should therefore become acquainted and adept with the process of negotiation for accommodation. Frank (2002) noted that employers' inconsistent responses to the ADA can create ethical dilemmas for individuals with visual impairment and rehabilitation professionals. Equal access is a beneficial goal to strive for and a civil right, but if requesting accommodation leads to a person not being hired, or to being fired, it is something harmful and to be avoided.

The field of rehabilitation has produced and distributed a body of work describing the techniques and benefits of accommodation for people with visual impairment both after and before the ADA (e.g., Roessler & Rumrill, 1995; Salomone & Paige, 1984). Rehabilitation professionals know what could or should be done to accommodate people with severe visual impairment (e.g., Rumrill, Roessler, & Battersby-Longden, 1998). What is not known is what *is* being done apart from the work of rehabilitation agencies. Guidebooks on how to provide accommodations for persons with visual impairment include the work of: the American Foundation for the Blind (1992), Gourgey, Leeds, McNulty, and Suvino (2002), or Joffee (1999). Another guide is “Working Effectively with People who are Blind or Visually Impaired” by Dickson (1994), edited by Bruyère, and updated in 2000 by Moore and the staff at the RRTC-BLV. This is available by calling a Disability and Business Technical Assistance Center (DBTAC) on the ADA hotline at 1 - 800 - 949 - 4ADA. In addition, assistance is available from state rehabilitation services, state or private centers for the blind, the Veteran’s Administration, or consumer organizations. It is important to note that the ADA request process and the rehabilitation accommodation process may work together, but they are not the same thing. An employer may seek help with providing accommodation from a variety of sources, however, Congress enacted the ADA in order to address the discrimination it described as purposeful unequal treatment (ADA, 1990). That is not the same thing as a lack of technique or knowledge. The expertise and knowledge of how to accommodate is available.

The Perceptions of People with Disabilities of ADA Accommodation

People with severe disabilities may not be well informed about the types of accommodations that can help ameliorate the disabling effects of their own impairments. Almost half the people age 45 and older surveyed by Leitman, Binns, and Risher (1995) did not know what accommodations were available to help with their vision loss. Until recently, knowledge of the ADA has not been widespread. The NOD surveyed people with disabilities to find out if they knew about the ADA. NOD reported that almost half the

people they surveyed did not know the ADA existed (NOD/Harris, 1998). A more recent NOD/Harris poll reported that 81% of the people with disabilities who were surveyed were familiar with the ADA (NOD, 2002). There were no questions in those polls about ADA accommodation requests.

In addition to noting that employers are not afraid to resist providing accommodations they deem unreasonable, Rumrill (2001) emphasized the lack of awareness on the part of people with disabilities concerning issues relevant to the ADA. In particular, he noted a lack of the communication skills needed to request accommodation. Rumrill reported that, based on his experience as an ADA consultant, the breakdown of the ADA request process is due to failed communication in the following three areas:

1. Employees do not know what accommodation they need to perform their jobs.
2. Employees do not know the limits to their rights to non-discriminatory employment practices.
3. Employees lack adequate self-advocacy and conflict resolution skills to participate in the complicated accommodation request process (p. 235).

Rumrill (2001) (and also Koch, 2000) endorsed training programs for persons with disabilities in order to compensate for the above deficits. On the other hand, the new paradigm endorsed by NIDRR (1999) defines disability as located in the interaction of the person with an impairment and the created physical and social environment, rather than as a deficit in the individual with an impairment. That interaction has multiple participants, each with different responsibilities. Palmer (2000), whose training program is being endorsed by Rumrill (2001), suggested that the distribution of responsibility for the ADA accommodation request process falls unfairly on the person with the disability. Neath and Schriener (1998) felt that teaching the world about disability and accommodation is an undue burden to place on individuals with disabilities. Employers, not people with severe disabilities, are required to be prepared to accommodate.

Research on employment-related accommodation requests from the perspective of persons with disabilities indicates that ADA requests can be problematic and even harmful. Harlan and Robert (1998) interviewed 50 employees with disabilities from several state agencies about their accommodation request experience. From those interviews, the authors described how employers resist the ADA by creating an environment hostile to making requests and by harassing people with disabilities who make requests. They concluded that this occurs because employers fear losing control over the work place. McNeal, Somerville, and Wilson (1999), in a survey and interview study, pointed out a negative effect on workers of employers' resistance to accommodation. They reported that "some" of the 50 persons with post polio syndrome in their study did not ask for any accommodation for the pain and fatigue they endured because they were afraid they would be fired if they did.

Hinton (2003) surveyed people with disabilities concerning their perception of changes in access under Titles II, III, and IV of the ADA. The 158 respondents came from 11 disability organizations in Tennessee. Participant disability types were: visual (7%), hearing (13.3%), and mobility (79.7%). Hinton found that people with visual impairment, compared to people with hearing or mobility impairments, reported significantly less improvement in access changes under Title II, Public Services, of the ADA.

Crudden and Fireison (1997), in a qualitative study of the job retention efforts of 10 workers who are blind, who were being helped by rehabilitation counselors, reported the following problems with the accommodation process. Employees who are blind (a) perceived negative feelings from coworkers required to provide sighted assistance, (b) felt that clerical staff considered the task of giving assistance an additional burden, and (c) believed coworkers saw them as being less competent when they could not complete tasks without assistance.

Frank (2000) investigated the ADA request process for large print by interviewing 14 people with severe visual impairment and found that

individuals requesting large print: (a) often received inaccurate, misleading, or false information about the ADA in response to a request; (b) found that the poor quality of the large print documents they did receive made the accommodation ineffective; (c) experienced negative emotional responses leading to the loss of employment; and (d) gave up in frustration because the complaint process took so long. Because of these barriers, people with visual impairment gave up on the ADA request process, on the ADA redress process, and on employment.

Bickenbach (2000) noted that the ADA request process requires that a person with a disability claim a label and membership in a minority group that is the object of discrimination. However, this may not be the way most people want to, or have learned to live with their impairment. Many people prefer to pass as not disabled rather than to say they have a disability. In addition, Bickenbach pointed out that the ADA presumes that people be sufficiently motivated and able to argue to employers, or in the complaint process that it is only the fact of discrimination that prevents their full participation in employment. Bickenbach (2000, p. 347) wrote, "This presumption in practice clearly favors intelligent people with late-onset mobility, or sensory, or mild psychiatric impairment that has not affected either their motivation or their general capacity to work." He felt that those characteristics are probably not representative of the general population of people with disabilities. Thus, he believed the ADA can only have a limited effect on the status of people with disabilities in general.

The Avoidance of Help-Seeking

An ADA request for accommodation is a help-seeking process. The literature indicates that there are difficulties with requesting any help, not just with making ADA requests. The reason most often cited for the avoidance of help-seeking is that asking for help is a threat to self-esteem (Nadler & Fisher, 1986). People find it demeaning to be perceived as needing help or to be the recipient of help. Another reason suggested for the avoidance of help-seeking is that there are systemic environmental

barriers to help-seeking that actively serve to demean or repel help-seekers (Gottlieb, 1992; Pratkanis & Turner, 1996). Burriss and Moss (2000) wondered if most people with disabilities believe they even have access to the help presumably made available to them by the ADA.

Minear and Crose (1996) reported 86 systemic barriers to help-seeking in their qualitative study of service systems for the elderly. These included the following physical, knowledge, and communication barriers:

Inability to get to where services are provided . . . lack of transportation, . . . vision and hearing impairments, lack of staff to assist in filling out forms. . . . ever changing rules and procedures. . . . aloof, brusque, or rude attitudes of service providers, overwhelming red tape procedures, complicated language and small print on printed material, . . . and (staff) failing to communicate in welcoming effective ways (p. 62).

Additional systemic barriers reported by Grayson, Miller, and Clarke (1998) in their qualitative study of the help-seeking behavior of college students included: the realization that help is not really available, fear of retaliation, and the social norms surrounding the seeking of help.

Nadler's (2002) research with Israelis and Palestinians supported the idea that affirmative action programs can be perceived as a central feature of inequality in intergroup relations. High status group members may give help in order to maintain their status or social advantage (in addition to such motives as caring and concern), and low status group members, those who need help, may refuse help in order to assert independence and attain equality. Thus, even requesting help that leads to autonomy, such as the affirmative action of ADA accommodations, may be avoided in order to avoid oppression and appear equal. White (1999), on the other hand, found in his qualitative study that people with mobility impairments continued to request accommodation and followed through with the complaint process out of a sense of moral obligation to the cause of equality for persons with disabilities even when they knew the process was ineffectual. Help may be

avoided in order to resist oppression and appear equal, or help may be sought in order to further the cause of equality.

Tuttle and Tuttle (1996), in their text on adjustment with blindness, presented seven characterizations of the way people who are visually impaired relate to assistance. This includes such things as never asking for help, or wishfully waiting until someone offers to help, or demanding help. The authors also listed seven characterizations of potential helpers' responses to a situation where a person with visual impairment needs assistance. This includes responses such as avoiding the person who is blind and needs help; patronizing the person who needs help; or seeing a need, but waiting until a direct request for help is made before helping.

Potok (2002) wrote that, among the able-bodied and even in the disability community, people with disabilities are expected to act in a manner that appears docile, unprovocative, and undemanding. Requesting accommodation may violate that social obligation, especially where it has never been done before. Even a polite request could be interpreted as a demand. Dickerson et al. (1997) noted that some children learn it is taboo to talk about their visual impairment. Sacks (1997) stressed that disclosure of visual impairment and accommodation needs is difficult to do. However, the ADA accommodation request process requires that, unless the person is obviously blind, disclosure of an impediment is required and requesting, or at least discussing help, must take place. There are choices to make with the ADA. The reasons people give for choosing not to request accommodation may indicate how the ADA request process is working.

The ADA Complaint Process

An important aspect of the ADA request process is the way it is enforced. A person who feels he or she is facing disability discrimination can file a complaint with the EEOC or other appropriate agency and, after that, file a law suit in court. However, comprehensive information on the complaint process is not readily available. The NCD interviewed a small

number of complainants and found that most expressed an enormous sense of frustration with the ADA complaint process (NCD, 2000). A recent NCD study of the ADA's predecessor, Section 504 of the Rehabilitation Act, found that none of the five government agencies it examined had a system to comprehensively collect, aggregate, or summarize detailed information about Section 504 complaints (NCD, 2003).

The EEOC aggregates some data on ADA complaints. Their records indicate that "Failure to accommodate" is the second largest category of complaints filed with the EEOC, while "Discharge" is first and "Harassment" is third (EEOC, 1999b). The EEOC (2002a) handled 16,470 charges of disability discrimination, or 20.4% of its discrimination case load against private employers and state and local governments in fiscal year (FY) 2001. In FY 2002, 15,964 disability cases were handled (EEOC, 2002b). The average processing time for all charges in FY 1996 was 379 days, but by FY 2000 it dropped to 196 days, and by FY 2001 was reduced to 182 days (EEOC, 2001; 2002a). The average time for mediated cases in FY 2000 was 96 days, and dropped to 84 days in 2001 (EEOC, 2001; 2002a).

The number of EEOC charge receipts based on a visual impairment, between 1993 and 2002, ranged from 370 to 506, with an average of 430 per year. For the same period, the average number of charges resolved involving a complainant with a vision impairment was 450. This number is higher because it included cases with multiple disabilities (EEOC, 2002b). Resolution of an EEOC complaint indicates that a case was closed for any number of reasons, not only that discrimination was present or dealt with.

A comprehensive study of all ADA, EEOC employment discrimination charges (N = 149,143) between July, 1992 and September, 2000 found that most complaints were rejected and when a complaint was accepted, the person with the disability lost most of the time (Moss, Burris, Ullman, Johnsen, & Swanson, 2001). However, this does not mean there are few valid complaints. Moss et al. reported that due to funding restraints, the EEOC utilizes a triage process to sort out complaints, and that most

complaints are rejected without investigation. Moss et al. reported that the EEOC only considers cases it believes will have the greatest benefit to the largest number of persons and that the only investigation that occurs for the cases it does consider is simply a letter to the employer after which 95% of those cases are found to be without merit and the person with the disability loses. Moss et al. found that the result of a fully processed EEOC complaint, win or lose, is most often simply a letter to the complainant and nothing else. Moss et al. concluded that the EEOC complaint process is ineffectual and that effective enforcement of the ADA rarely occurs. Moss et al. wrote,

The administrative system seems to promise more individualized attention than the majority of claimants will actually receive. Aside from a chance to tell their stories, most claimants will not benefit from filing a claim, yet may assume that a federal, state, or local fair employment practices agency is actively seeking evidence to corroborate their allegations. It is very troubling that the administrative complaint system required by Congress as a mandatory precondition for civil litigation is for many complainants just a place for the case to grow stale (p. 23).

A guidebook is available on the steps to take when faced with disability discrimination, which takes into consideration the limitations and difficulties with filing ADA complaints (Moss, Ranney, & Gunther-Mohr, 2000).

Colker (2000) examined the role of the courts and the Department of Justice (DOJ) with the ADA complaint process and reported that the vast majority of litigation was decided in favor of the defendants, that is, the employer. She wrote "It is hard to imagine that voluntary enforcement is effective when private parties can calculate that it is highly unlikely that any enforcement action for noncompliance would be brought against them" (p. 303). She further asserted that employers know this and they act accordingly. Allbright (2002) examined 429 ADA employment court case

decisions from 2001 and found the same pattern repeated as in prior years. Employers won overwhelmingly, 314 to 14, with 101 cases being decided without the merits of the claim resolved. Sullivan (2001) found the main reason people charging disability discrimination lost their complaints in court was because of a breakdown in the negotiation process whereby an employee and an employer discuss what accommodation is needed. He noted the ways employees were blamed for contributing to that breakdown, but opined that the ways employers affect that breakdown were too varied to list. O'Brien (2001) concluded that the whole request and complaint process is not only ineffectual, it is potentially dangerous because, as a result of recent Supreme Court decisions, some people face termination if they request accommodation.

Summary/Analysis of the Factors Affecting ADA Accommodation Requests Found in the Literature

Analysis of the literature indicates that the process of utilizing the ADA, that is, compliance with it, and reliance on it, not just the global goals of the law, must be examined in order to evaluate its effects. Furthermore, it is necessary to differentiate the impact of the ADA from the effects of other funding streams. Global indicators such as statistical changes in the labor force participation rate of persons with disabilities cannot be clearly credited to the ADA. It is not possible to determine from such data if anyone was able to find, retain, or advance in a job because he or she received accommodation per the ADA. Although global indicators may give insight into the employment status of people with severe disabilities, they do not indicate how a particular piece of legislation is affecting their employment status. It is not possible to ascribe cause and effect using global indicators.

More precise systems-level evaluations might help. However, it is not clear what systems should or could be evaluated. Due to the problem of self-incrimination, information gathered from employers may be unreliable, or may not indicate something that actually affects a person with a

disability. Employer preparedness or attitudes may not reveal actual hiring behaviors. The impact of preparedness and hiring decisions needs to be considered in order to reveal the effects of the ADA on job opportunities for persons with disabilities. Individual-level evaluation, such as self-reports of work activity, may also not be reliable, but if they are correct, such things as the ability to work despite a disability does not necessarily reveal an accommodation request process per the ADA, or an effect of the ADA.

Evaluation may be inferred from the opinions of those who help find employment for persons with disabilities. Rehabilitation professionals' advice on the best practices for placing their clients into jobs, implies that they believe the ADA is not effectual and that it has not eliminated disability discrimination. Further, there is an array of contradictory advice being offered on how to obtain employment-related accommodation. For example, people who are blind are told by the EEOC guidelines and by DBTAC counselors that they should not ask for accommodations or tell what they need before a job is offered. Some employment specialists teach the reverse, that job seekers who are blind should tell what they need during an initial job interview, before a job is offered. That advice may be prudent, but it is not consistent with the DOJ/EEOC guidelines.

The effect of the ADA can be observed by noting whether or not an employee or job seeker requests and receives accommodation from an employer, and whether or not this leads to employment, advancement, or retention of employment. There is presently no systematic, on-going evaluation of this process. Not surprisingly, knowledge plays an important role in the accommodation request process. This includes the knowledge of what to ask for; the right to ask; and the procedure or methods of asking, which include skill in negotiation. Specific education programs targeting those areas have been developed to compensate for the lack of this knowledge among job seekers and employees, but the ADA requires that employers be ready and able to accommodate, not that employees or job seekers be expert in initiating requests. For the requester to have this knowledge may be helpful, but other stakeholders, such as rehabilitation

professionals and the entities covered by the law are required to have the knowledge necessary to be able to fully comply with the ADA.

A cumbersome or confusing mechanism for making and responding to requests is a barrier to the ADA. Other systemic barriers that may impede requesting ADA accommodation are negative attitudes, such as a work culture that devalues persons with disabilities, or that minimizes the requirement for, and the importance of providing accommodation, or that resists requests. This may be manifested by an individual hearing negative attitudes expressed, or it may be surmised by a person not hearing any positive attitudes expressed. Systemic solutions to removing barriers and resolving complaints include negotiation and the mediation process. There is a large body of information available on how to accommodate a person with severe visual impairment. It is possible to access this by telephone, but seeking and utilizing that knowledge is still largely voluntary.

The ADA authorizes requesting help, but help-seeking is not a simple process for people who are blind. Asking for help is a choice. Seeking this or any type of help may be avoided. People may not request help for any of the following reasons: (a) being fully prepared to work without requesting much or any accommodation; (b) not expecting to receive accommodation even if a request is made; (c) feeling or expecting a loss of self-esteem as a result of making a request because of one's own attitude about asking for help, or because of the reactions of employers, or coworkers, or others to a request; (d) fear of retaliation for making a request, or for asking for help with a request, or for filing a complaint; (e) not wanting to request help or talk about one's visual impairment at all; (f) past experiences with the request process and its outcomes, including the effort and time required to make a request, and the quality of the help received; (g) the effort required to lodge a complaint; and (h) the ineffective complaint process.

The potential for the ADA to impact the employment of persons with severe visual impairment may be affected by real or imagined costs. Employees may be reluctant to request help they know will be refused

because of cost. This would circumvent the negotiation process for accommodation. None of the accommodations used by persons with severe visual impairment are inherently "too expensive." The appropriate level of expense depends on needs and uses for the job and an employer's assets, not on the wage of the employee. Unless an employer claimed undue hardship, a person with a disability might not know if the outcome of a request for accommodation was related to cost factors.

The complaint process and enforcement of the ADA are factors affecting the ADA request process. Employers may feel free to refuse accommodation requests they deem unreasonable, and they also likely know they will not face effective enforcement action against noncompliance with the ADA. Investigation of a refusal to accommodate usually does not occur. Complaint agency reports of the numbers of complaints resolved do not indicate how the law is affecting employment outcomes because the compliant process is not viable. The litigation process is also ineffective with most court cases being decided in favor of the employer. Despite the protections offered by the ADA, employed persons with disabilities face termination for requesting accommodation and job seekers may not be hired if they request accommodation. The reactions of people with disabilities to the complaint process may affect the utility of the ADA.

Purpose of the Study

The interview study will elaborate and expand upon the elements found in the literature review. It can help confirm the relevance of factors and help identify reasonable survey items. Not all elements uncovered thus far are amenable to a survey. For example, a survey could only obtain the opinion of someone who is blind as to the information about the ADA that other stakeholders had. A first-hand report from requesters could be obtained by inquiring into the things they are taught by other stakeholders. This could indicate if people with severe visual impairment are being advised not to request much accommodation, to only make requests that are inexpensive, to help pay for the accommodations, or to specify exactly

what accommodations are needed, and to do any of this during an initial interview, as was found in the literature. The reasons a person chooses not to utilize the ADA, such as advice from experts, may help indicate the effectiveness of the ADA.

Another element that could be difficult to track with a survey is the source of an accommodation. A requester may not be privy to this information. There are various sources an employer may obtain help from for providing accommodation. Title I of the ADA does not specify the ultimate source(s) of help, except that the burden may not be put on the person with the disability. The question for this study is not how various rehabilitation services work, but how the ADA request process works. This includes the negotiation, mediation, and complaint process. In addition to a closer look at the request process, the interview study may indicate if there are other effects of the ADA that can, or should be examined with a survey. For example, finding clear aisles, Braille or raised numbers on elevator buttons and rooms, and appropriate responses from a trained staff could be evidence of effects of the ADA that are not part of the request process.

Method

The effects of the ADA on the employment outcomes of persons with severe visual impairment are observable in the accommodation request process. In order to ascertain those effects and confirm or expand the findings from the literature review, several different perspectives of the request phenomena were sought. This initiated the process of evaluating if and how people who are blind or have a severe visual impairment rely on the ADA for help. Semi-structured qualitative interviews were conducted with (1) individuals who have a severe visual impairment, (2) rehabilitation professionals, and (3) employers (see interview outline in Appendix D). The following research question was addressed through the interviews.

Research Question

- 1 (a) What do individuals who are blind, VR counselors, and other stakeholders identify as the salient information needed for individuals who are blind or severely visually impaired to request a job accommodation; and (b) What are the major factors (e.g., workplace culture, cost and magnitude of accommodation) influencing the likelihood of individuals with severe visual impairments requesting and receiving a job accommodation?

The aim of this qualitative research was to discover factors and categories to use to build a measurement scale (Strauss & Corbin, 1998). This was carried out by using qualitative content analysis (Carley, 1994) on qualitative interviews (Weiss, 1994). This is an appropriate method for research intending to expand existing hypotheses (Kratwohl, 1998). The researcher also sought new material per Miles and Huberman (1994) and Strauss and Corbin (1998). The draft survey created will be pilot tested and refined further for phase two of this project (see Appendix B).

In keeping with NIDRR's guidelines (NIDRR, 1999), a Participatory Action Research (PAR) approach was utilized for this project (Tewey,

1997). PAR Team members included representatives from two consumer groups, the American Council of the Blind (ACB) and the National Federation of the Blind (NFB), state VR agency administrators, and state VR counselors. In addition, the Project Director for this study has a severe visual impairment and experience requesting accommodation under ADA.

The PAR Team members were asked to suggest people who had direct experience with the ADA request process. PAR Team members contacted people they thought would be good informants and obtained permission to give the researcher their contact information. Table 1, on page 32, describes the nine informants who agreed to participate in this study. Two are blind and unemployed, two are blind and employed and worked for federally funded rehabilitation service providers; one as a counselor with a Client Assistance Program (CAP), and one as an Independent Living Center (ILC) counselor. Two other informants were employed as VR counselors for state agencies for the blind, and the seventh was a Disability and Business Technical Assistance Center (DBTAC) counselor. The two employer informants worked as human resource personnel in large, nationwide, private, for-profit entities that are covered entities under the ADA.

All four informants who are blind told of requesting accommodation at work or seeking work, from private entities and from entities that are covered by the Rehabilitation Act of 1973, Section 504 (public schools, and city and state government). Those entities are also covered by Title I of the ADA. A difference may exist in the location or potential result of a Section 504 complaint, compared to an ADA complaint, but since the informants did not discuss complaints, this was not a problem for the study. The appointments for the telephone interviews were set up using phone or e-mail. Permission from the Mississippi State University (MSU) Institutional Review Board for the Protection of Human Subjects (IRB) was secured and the approved consent statement was read to all informants. The taped interviews, conducted between May, 2002 and October, 2002, took between 30 and 60 minutes each and were transcribed by a departmental

secretary. Informants were asked to tell their experiences with ADA accommodation requests related to employment. They were also asked to give their opinions of the process and further, they were asked what questions they thought should be included in a survey about the ADA accommodation request process for people who are blind or have severe visual impairment.

The initial coding by the researcher was to create a summary of each interview. Each summary was read over the phone or e-mailed to the informant for member checking to assure the material was correct and to collect any additional thoughts (see Appendix D). A draft of the survey was sent to PAR Team members and their suggestions were incorporated into the survey. The draft of this report, including the suggested changes to the survey, was sent to the PAR Team for final review. Suggestions offered by PAR Team members were incorporated into the final monograph.

There were no exceptional events during the interviews. It appeared to the researcher that revealing his insider status as a person with a severe visual impairment who needs and requests accommodation encouraged all informants, not just those who are blind, to be more forthcoming with information about their experience with accommodation requests. The most troubling issue is that both people who are blind and unemployed are African-American. The two employed informants in the study who are blind are Caucasian. This raises the question of the degree to which race was a contributing factor to the difficulty those two informants encountered with obtaining accommodation and employment. This is just one factor for which the study was not able to gather data. A larger, more varied sample is needed in order to consider the effect of the participants' demographic features on ADA requests. The most gratifying response came from an employed individual who is blind who said, "I'm glad you're doing this research. I have wondered if other people feel the same way as I do; I would never know otherwise."

Table 1. **DEMOGRAPHIC INFORMATION OF INFORMANTS**

Informant	Vision Status	Age	Edu.	Race	Gender	Region	Income	Employment
AB	Totally Blind uses cane	40	AAS Med. Tech.	African Amer.	Female	South central	\$10,000	Unemployed
CD	Some sight uses cane & Braille	29	BS Bus. Admin.	African Amer.	Male	South central	\$10,000	Unemployed
EF	Totally Blind uses guide dog	50+	BA	White	Female	South central	\$40,000	Full-time
GH	Legally Blind	46	MSW	White	Female	North west	\$15,600	Full-time
Rehabilitation Professionals						North west		
IJ	Sighted	43	MS	White	Female	west	\$40,000	Full-time
KL	Sighted	51	BS	White	Female	South east	\$30,000	Part-time
MN	Sighted	50	MS	White	Male	South	\$30,000	Full-time
Employers						South west		
OP	Sighted	34	MS	White	Male	west	--	Full-time
RS	Sighted	35	HS	White	Female	South west	--	Full-time

Data Analysis

The first steps of analysis involved multiple readings of the material and editing and summarizing the transcribed interviews. Similar ideas were connected and organized into a flowing discourse (Blauner, 1987). The summaries were examined for issues that suggested categories that addressed the research question or suggested a question for the survey. For example, the statement, "Employers do not know how to provide accommodation," suggests knowledge, or teaching about the ADA and accommodations. "Keep a written record of requests," fits the category of the best or the worst practices (Appendix C), that will be investigated in Phase 3. In this phase of the project it is included insofar as it gives insight into the barriers requesters face and the expectations of the stakeholders.

The material was grouped separately for persons with visual impairment, rehabilitation professionals, and employers. With respect to the group of professionals, the DBTAC counselor's input was not contrary to what was said by the VR counselors. All three supported each others' experiences and evaluations of various elements of the ADA. The only difference to note is that the DBTAC counselor was trained in the ADA and in her job capacity, only provides information about accommodations and the ADA, while the VR counselors said they had not been trained in the ADA and they provide a variety of VR services.

Four integrated story lines were created from the interviews. Each is a combination of the material from: (1) both persons who are blind and unemployed; (2) both persons who are blind and employed; (3) two VR counselors and one DBTAC counselor; and, (4) two employers. Inclusive integration of the material followed and confirmed the importance of a particular issue, proposed survey question, or conclusion. For example, most of the informants felt that involvement by rehabilitation specialists was essential. Lists were then created of the elements of the ADA request process, the informants' suggestions of the best and the worst practices for requesting accommodation, and their ideas for questions for the survey.

Results

The first results presented are the four integrated story lines from the interviews. Then, the elements of the request process based on those interviews are listed. Finally, additional findings of this project are noted.

Integrated Story Lines

The four story lines are based on the material from 9 people and were created from over 200 pages of transcribed interviews that were first reduced to 50 pages of summaries. Each section is written as though only one person was telling the story but the material comes from more than one source. The following 9 pages are the collapsed, combined, real, separate, and current (2002), situations, ideas, or processes expressed by the informants. The informants were not involved with each others' story. The aggregated experiences of the 2 individuals who are blind and unemployed are presented first, followed by the aggregated experiences of the 2 individuals who are blind and employed. Next, the experiences of the 3 rehabilitation professionals are told as if they came from just one person. Finally, the aggregated experiences of the 2 employers are presented.

People Who Are Blind and Unemployed (Two)

After struggling to get accommodation to complete two college degrees, finding employment has also been a struggle. In college, my requests were ignored and I had to call on the vice-president because of the teacher's retaliation against me for just asking for help. A reader was provided after that, but the reader did her own homework in class and was of no help to me. Now, again, my requests for a reader for an employment test during a job interview are being refused. No reasons are given, just "we don't do that." I guess people have a way of not liking you, or maybe employers in general just do not want to hire a person who is blind. Maybe employers believe no accommodation is possible for someone totally blind, but they don't say that, or give any reason for not accommodating me. Why

was the interview even set up? They knew I'm blind.

A few weeks later, after a consumer advocate called the employer, the recruiter called me back and agreed to provide a reader, but by then, I had problems with transportation that got in the way so the test had to be put off. Some people can find someone to help, maybe to car pool with. I would pay my share of the gas if I knew someone with a car, but I just get refused by car pools. It costs me a lot to pay for transportation. Why go anyway? The job requires a high school diploma. I have an Associate's degree and Bachelor's degree and experience with the job. Rehabilitation services refused to reopen my case and would not provide the \$5,000 in new assistive technology and upgrades I need, so there would not likely be a job offer now. Your hands are tied if the VR agency won't help.

At another job interview, when I walked in, the receptionist said nothing. I had no clue what to do, or where to go, or where to sit. There was just silence. Finally, the recruiter came by and greeted me, and led the way to another room. I tried to be helpful. I answered his questions about accommodation. It may have been a mistake to tell the cost and how to get the assistive technology because it probably scared him off and ended it right there. Still, giving up was not an option. Getting a job was possible. I know access for physical disabilities, like for people who used wheelchairs, is mandatory, but **there ought to be a law requiring employers to provide things for people who are blind; simple things like a reader, or a tape recorder, or a computer with speech.**

People Who Are Blind and Employed (Two)

I went to the interview without my guide dog. There was no sense losing out even before having a chance to present a resume and convince the manager to hire a person who is blind. My friend acted as a sighted guide and was very discrete. I was able to tell the boss what I could do and I was offered the job with a start date of next week. Monday morning came and this time I had my guide dog, and sure enough, the manager said, "no

way, go home, leave the dog home or outside, but do not bring it into the office." Every excuse I ever heard before was presented: allergies, germs, and fear of bites and rabies. I shared some information from the ADA hotline and things settled down.

That wasn't the only thing I had to teach the employer and also teach my coworkers. Some people liked the dog and tried to feed it, even after being told not to. Then there was the daily hassle of getting people to not leave trash cans out in the aisles, not leave desk and file cabinet drawers open and not put chairs out in the middle of the floor. On top of all this, the computer the employer gave me to use was too old to load with my copy of JAWS. This created even more problems. Some coworkers complained to the boss that I was asking them for too much help. It was depressing to go to work with people you can't trust; people who complained about you to the boss behind your back. Being on probation for the first 6 months added to the worry. Trying to learn the new job and learn what assistive technology was available that would work, and how to install and use it, were all going on at the same time, making it a massive effort to even begin to catch up with the work. Sometimes I feel like I can't deal with this. **I don't have the energy to deal with these hassles day in and day out. I feel like giving up, going home, and just taking the disability check.**

Vendors were always willing to help, but they want to sell you something. I wonder how much anyone could ask for before becoming too expensive. When I suggested what things I would need, my boss asked for medical documentation to prove the equipment was needed. I'm obviously blind, so that felt like a threat of more trouble to come. I know retaliation will be subtle if it comes. The work just had to get done, well, and on time. Fortunately, I was able to get help by phoning the state center for the blind and calling on some friends who had the same problems and knew how to fix things, at least for now. **When everything is working, it's great; I love my job, but even with the latest equipment and software, there are always glitches with technology for the blind.**

Rehabilitation Professionals (Two VR Counselors, One DBTAC Counselor)

One employer we worked with was very apprehensive to begin with. She wanted to know about the ADA, about what their responsibilities were for accommodation, how to evaluate the needs, who would pay for evaluation, who would evaluate, and what the accommodations might be. She also had a lot of doubt that the employee could actually do the work. I assured her that the way our agency operates is to try to provide as much of the accommodation as we can because our job is to place people. In this case, **much to my surprise, the employer provided most of the accommodations needed because they found the large screen and screen enlargement software were a benefit to customers, not just the one employee with the vision problem.** They were in the midst of renovating anyway so the accommodations went into the remodeling budget. **Sometimes it's just a 21-inch monitor, ZoomText, and some low vision aids; sometimes there is a lot more.** To begin with, you always have to provide more than one accommodation, or maybe there is no solution. When employers are willing to work with us, we usually can make it work within 3 months, but sometimes it takes longer. If their IT people (Information Technology specialists) don't want to work with us, there's nothing we can do. Without an openness to try something new for accessibility, we can't place a client. One employer accommodated by waiting 6 months for us to finish the job.

I've not had a lot of trouble that I can think of when we request accommodation from schools, that is, for readers or for large print or for additional time for school exams, or employment tests like the BAR exam. If somebody required an accommodation like lighting, something small, it would not be a problem. I can only think of one time they didn't give us more time, but they gave us other accommodations, so it wasn't a problem. One client I had was allowed a reader, but then they were put into a noisy, distracting environment and she failed the test. We discussed her options and she decided to write a letter to request they reconsider. She was allowed to retake the test in a better environment and then she passed.

I never received any training on the ADA. My agency doesn't push it, not even for public employers or huge outfits. (Note: the DBTAC counselor was trained on the ADA and that agency does push it when called on for advice.) The equipment rules are clear, but we just don't push it. **Once you find an employer, you always pay for everything and don't ever push the ADA button even though legally the employer is probably responsible for most, if not all of it.** One client was in tears, fearful that if I approached her employer she would lose her job. It was a huge public entity going through a computer platform change and they had forgotten to include the upgrades for this employee's AT. I provided about \$1,000 worth of upgrades. The employer still hasn't signed the equipment agreement, stating they know it is their responsibility to maintain the "free" equipment and software the state provided for them.

Sometimes, when the employer is small, I get the client to have the employer sign a letter stating the accommodation would be an undue hardship. That isn't the case for a huge entity, but there may be a fear, or call it an intimidating factor, when approaching somebody in a position of authority over you and making a request. I could help to role-play the request process with a client, or if the client wants something new and expensive, you can show how they can get by using something old they might already have, or something inexpensive. The accommodation is not necessarily what they want. If a reasonable accommodation is offered by the employer, even if it's different from what is requested, then that's an accommodation. On the other hand, the employer may pat the person on the back and say you don't really need that, when the person really does need it, and has a right to accommodation. If possible, I'll get the client to take their own equipment to a work site if we purchased it for them while they were in school, but I haven't insisted that employers - not even public employers - purchase the initial round of equipment.

I'll buy the equipment. I want my client to keep her job; it might be another year or two before they have the money for it in their budget if I wait for the supervisor to take care of it. I suppose I could say, 'No, this is

an ADA issue. You'll have to go back and get it taken care of with your employer." I'll bet you anything, if I started doing that, it certainly wouldn't affect that one client's job, but others may be affected. It's a whole lot easier to buy the stuff and install it. I have people come back to me for equipment repairs, or when a 10-year-old CCTV has to be replaced, or software upgrades, or a promotion leads to new job responsibilities, or if there's a job relocation, or if there are other changes in what a person needs. **In a way, I've subverted responsibility for the ADA.**

I would be surprised if any employer provided accommodation. I wouldn't even ask. Why wreck a job for this client or for the ones to follow? It's my job to place clients. As long as I have the money to pay for the things that are needed, I do it. The ADA is basically voluntary. Most of the time you can't prove discrimination. If you file a complaint, you lose 95% of the time and if you win, what do you win? The employer hates your guts. Retaliation can be very subtle and is even harder to prove. Who would go to court over a CCTV? Who wants to make an employer mad, or be a martyr? I encourage people to try to work things out without filing a complaint. Most people just want to get along with others, but if they have been fired and have nothing to lose, they may file a complaint or sue.

I know I subvert the ADA. I should be teaching employers and clients what they are required to do. It's my fault they don't understand what they're supposed to do. **Even 12 years after the law, there still is incredible ignorance about it.** The training of staff is absolutely critical, but I don't do it. Instead of using a low-key approach, like asking "Can we explore accommodation?" I present a well-trained client with a whole bunch of equipment to an employer as a gift. Here, take this free gift from the government and remember me when I have another client and you have a job opening. **Most employers don't know the first thing about accommodations or the skills of people who are blind.** They are more amazed that blind people can get dressed, or brush their teeth than they are interested in their work skills.

Employment is voluntary. Employers only want the best. You have to show, not only that you can do the work, but that you can do it better than all the other people trying out for the same job. No employer is going to pay for a lot of expensive equipment to hire someone for a minimum wage job. Even a huge employer isn't going to do it and I wouldn't ask them to, not even for a better paying job. By not asking, I guess I am subverting the ADA, but I don't want the ADA to be the reason a client doesn't get a job. **If employers find out they have to be the ones to accommodate, then blind people just won't get jobs.**

Employers (Two)

An employee returned after a year of health leave. He had lost about 30 to 40% of his vision. He already knew the job and he was confident he could still do it, but he had some new needs due to his vision loss. He was not visually impaired before, so he was not sure what resources were available or what he would need to do the job effectively. We talked about the software that's available. We weren't sure what, and to what extent, accommodation was needed so I called for help from the (State) Institute for the Blind. They know more of what accommodations are available and could identify, better than I, what the employee's needs were. Their specialist sat down with the employee on the job and determined that ZoomText might be the best accommodation. However, we use a single server network. If you put software on one computer, it's on all of them, which we didn't want. Also, when we load it, it would be deleted overnight. A 15-20 minute installation process every day was not the best answer.

We had to get ZoomText to stay on his computer to enlarge the screen for the software he used to be effective for him. At that point, I grabbed my IT people. They did some real quick testing at our corporate office with our different internal databases and with the access software we usually use to accommodate, and we had already purchased. They were able to load ZoomText on an individual drive so he could access it on his drive. **The whole process took 2 or 3 weeks.** The employee was being

retrained on our systems during that time. We used photocopy enlargement so he could follow along with everyone else, and he sits up front in training. **He learned ZoomText in a few minutes.**

We have a car pooling program because of our state's anti-smog law. It's not anything to do with disability, but it is strictly enforced. We could be fined thousands of dollars if we did not have a program in place. One time, a person with a vision problem requested a change in her schedule so she could car pool with someone in her neighborhood instead of driving after dark. That was no problem. We didn't even think of it as a disability issue, it was just the right thing to do. We have one person who is blind who has been promoted to a manager level trainer position. **Of course, we cannot accommodate someone who is totally blind. Someone with no vision versus low vision is not able to successfully do the job. I know it can't be a reasonable accommodation to make our system work with speech. We would have to change our whole computer system in order to accommodate speech synthesizers. It would cost us millions and millions of dollars.** If we ever find the technology to make speech software work with our systems, we would do it, but for now it just isn't worth it. **We have to think of our customers. Is this person going to be able to work fast enough to satisfy our customers?**

Sometimes a person with a visual impairment thinks they have all the equipment they need for the job, but our system will not work with speech software. The hardest thing is if they don't know what accommodations they need. At times, people call me and ask me if we can hire someone with a disability. They don't come right out and ask for an accommodation, so I ask them if they want to know what I know about accommodations. I just don't assume someone wants to know about this. I make sure they are asking for it. If they say "yes," I tell them what our experiences have been. After that, if necessary, I direct them to the state agency. We have a good relationship with our state agency for the blind. They do disability awareness training with our staff and they provide the employees we need. They look our jobs over and they send us candidates they know can do the

job. We're always looking for good people and our state blindness agency lets us know when they have one. At other company sites, the recruiter goes to job fairs and things like that, but we don't do that here.

We'll ask an employee with an impairment, "What do you think you need?" The manager will talk to the people the disabled employee sits next to in order to make sure they're comfortable with the situation. The manager explains to coworkers what they can and can't do if they're asked for help; something that's not going to affect their productivity, such as maybe read something. The only thing we do that's documented is to make sure that person has a buddy in case of a fire or tornado so they can get out of the building during any type of drill or actual emergency.

We have our own facilities department to take care of things like physical access, clear aisles, and safety. In terms of visual impairment, we have some very knowledgeable facilities people who are usually a step ahead of me, especially when it's Braille on a sign at a facility and that sort of thing, but personal accommodations are another story. **The person first and foremost must know how to use the computer and the AT software they have on their computer to enlarge the screen.** We provide training on our systems for everyone. We'll train them on our part of the system, not on their part.

The prior recruiter trained me. She had gone through a lot of training in the past on what to ask for and what to look for. **Training on diversity issues is essential and is really an ongoing thing both for managers and others. Disability issues have to be built into other training that exists.** We have diversity training for supervisors on how to conduct interviews. Sometimes a manager's approach isn't as effective as it could be, so we have training for all supervisors to make sure they follow a process that is civil and legal. Videos can help in the training when they are realistic and don't seem silly to our supervisors.

Elements of the ADA Request Process

The above storylines give an overview of the ADA request process from 4 different perspectives. The elements of the process are presented in detail in the following breakdown and listing of salient information.

The people involved or mentioned in the stories were job seekers and employees who are blind or have severe visual impairment, human resource personnel, line supervisors and managers, VR counselors for the blind, a DBTAC counselor, and vendors of blindness AT. Family members were mentioned as inquiring about job openings and accommodations for a relative with a disability. Friends were mentioned as serving as a sighted guide, and as a resource for resolving computer AT problems. Coworkers were mentioned in regard to the amount of help to request or receive from a coworker, for car pooling, and as needing to learn to observe guide dog etiquette, and to maintain a blindness friendly and safe work environment.

The request situations discussed by the nine informants included the following: (a) in college; (b) on employment interviews; (c) with current and former employment; and (d) for a returning employee. The informants described a range of results along a continuum of: (1) unsuccessful, initial and long term failure or refusal; (2) successful, limited to a certain level of disability, cost, and effort; (3) successful, but unstable, and (4) successful.

The requests for accommodation that were unsuccessful were made for specific things by people who were totally blind who knew what they needed (readers, or computer speech and Braille technology). These things were needed during job interviews, or for performing jobs with an entity that used a single server computer network with proprietary software that was not compatible with speech software AT. The process of having on-going, unspecified, "as needed," requests for help from coworkers was also unsuccessful. Successful requests and employment occurred when the accommodation was: (a) unknown (ZoomText), or was (b) hidden until after the applicant was hired (use of a guide dog), or (c) provided by the

applicant (JAWS), or (d) a VR counselor was involved with the process and provided some or all of the following needed pieces: evaluation, training, accommodation(s), repairs, replacements, and upgrades. Employment-related accommodation occurred for current employees, a returning employee who knew the job before losing some vision, and for employees or applicants served by a VR counselor, and for applicants who were able to convince the employer they could do the job.

The following lists are based on the statements made by each group of informants concerning their experience, knowledge, and/or beliefs of the ADA accommodation request process. These lists are not rank ordered.

People who are blind and unemployed experienced the following:

- Seeking and receiving redress from retaliation encountered due to requesting accommodation in college;
- Receiving ineffective accommodation;
- Being refused readers for job applications and employment tests for employment interviews even when advance notice was given;
- Discussing accommodation needs in response to the employer's inquiry during an initial interview and not being hired; and
- Entering an employment interview environment and finding no welcome, no comments, and no help, even for finding a seat.

Employees who are blind told of experiencing the following:

- Objections to having a guide dog at work, a work environment where guide dog etiquette was unknown, and where, when it became known, guide dog etiquette was violated;
- A physical work environment that was not safe, or blindness friendly;
- Old computer equipment that would not function with blindness AT;
- Resistance from coworkers to requests for help;

- Alienation from coworkers because of requests for help; and
- Additional requests for medical documentation to justify requests for specific items rather than for information on impairment status.

Individuals who are blind told of finding help or wanting to obtain help from the following sources:

- A consumer advocate intervened to reverse an employer's refusal to accommodate, but the individual was unable to profit from the advocate's intervention because of a lack of transportation;
- An employee who is blind had friends and a support network that helped with information to resolve problems with AT, but the individual felt there will always be glitches with blindness AT;
- Both employed and unemployed individuals wanted VR to help with the equipment they needed for employment but some were denied this help in addition to being refused accommodation by employers;
- An employee called and received helpful information about her AT from a state training center for people who are blind; and
- An unemployed individual who is blind wanted a law requiring that employers provide simple, easy to create accommodation for the blind, such as the law requiring accommodation for people who use wheelchairs.

People who are blind expressed the following concerns regarding their accommodation needs and the request process:

- They had an expectation that employers would not hire them because of the cost of the AT they needed;
- They were uncertain as to the appropriate amount and cost of AT to request before being perceived as being "too expensive";
- They were concerned that AT vendors' advice was unreliable

- because vendors want to sell them their products;
- They feared subtle retaliation as a result of requesting accommodation or filing complaints for failure to accommodate;
- They felt threatened by requests for medical documentation because they were obviously blind;
- They felt depressed by coworkers' objections and reactions to requests for help needed due to problems with equipment;
- They felt angry at violations of guide dog etiquette or safety protocol;
- They felt uncertain of their ability to perform well without appropriate or functional accommodations;
- They felt enthusiastic about work when they had accommodations they needed and these functioned correctly; and
- They felt that new AT for the blind was greatly improved over what had been available, but there were still problems with new AT.

The input from the rehabilitation professionals (two VR counselors and one DBTAC counselor) was greater than from the other two groups because they described their own roles and also their thoughts of how people who are blind and employers relate to the ADA.

The VR counselors expressed the following beliefs about their own role in regard to the ADA accommodation process:

- The VR counselors had never received training on the ADA;
- The VR counselors felt it was their responsibility to teach consumers and employers about the ADA, but they did not do it;
- The VR counselors believed their job is to place the client in a job and that asking employers to provide accommodation is contrary to, or would interfere with their job of placing clients;
- The VR counselors will provide all the accommodation needed as long as their agency's resources allow;

- The VR counselors believe the state rehabilitation agencies they work for are not “pushing” the ADA;
- The VR counselors always pay for accommodations despite agency equipment rules and the legal responsibility of employers; and
- A VR counselor felt that by VR providing accommodation that an employer should provide the ADA was being subverted, but that there was no choice.

VR counselors offered their perceptions of employers’ attitudes about accommodation for people with severe visual impairment:

- A VR counselor found that even a huge entity that can afford to pay for upgrades, overlooked an employee’s needs for AT upgrades during a system-wide computer operating system change;
- A VR counselor felt that even large employers are reluctant to acknowledge responsibility to maintain equipment provided for a consumer by a state rehabilitation agency, and
- A VR counselor said that sometimes employers’ IT specialists do not want to cooperate with VR specialists and when that happens, AT accommodations are not possible.

The VR counselors and the DBTAC counselor expressed the belief that:

- Employers are ignorant about the ADA;
- Employers do not know about the needs or skills of people who are blind;
- Employers are apprehensive that people with severe visual impairment can even function to work at all;
- Employers are apprehensive about the responsibility to pay for evaluations and accommodations; and
- Employers may try to talk a person out of an accommodation the employee actually needs.

The DBTAC counselor repeatedly stressed the need to negotiate with the employer for accommodation, and the hope that a reasonable accommodation could be found, but both of the VR counselors repeatedly expressed the following beliefs about what would happen if employers were required to pay for accommodations:

- Employers will not provide accommodations;
- It would be a surprise if an employer provided accommodations at all;
- It is easier to buy and install accommodations than to insist the employers do it;
- If the counselors do not pay for accommodations, and instead require the employer to pay, it may not effect that one client, but it will have negative consequences on others;
- Requiring the employer to pay for accommodations would wreck the job possibility for that one client and for future job seekers;
- Employers will not pay for a lot of expensive equipment for a job paying minimum wage, or even for a better paying job; and
- If employers have to pay for accommodations, blind people will not get jobs.

Rehabilitation counselors offered the following thoughts on how persons with severe visual impairment react to the request process:

- Clients may fear losing their job if they approach an employer for accommodation, so instead they return to the rehabilitation counselor for needed help;
- Clients may feel intimidated approaching a person in authority, such as an employer, for an accommodation; and
- Most clients just want to get along and avoid conflict and complaints unless they have been fired and feel they have nothing to lose.

Rehabilitation professionals suggested the following ideas and

approaches to help with the ADA accommodation request process:

- All the accommodations requested are not always needed;
- A reasonable accommodation is not necessarily what was requested, it needs to be something that is effective;
- The counselor may suggest the consumer use something that is already available, or a less expensive accommodation;
- The counselor may suggest the client use his or her own equipment;
- Counselors can explore options with the consumer when the results of requests and accommodations are initially unsuccessful;
- Requesting and receiving additional accommodation is sometimes needed and is possible;
- Counselors can use role-playing to help clients request accommodation;
- Clients often return to their rehabilitation agency counselor for equipment repairs, replacements, upgrades, or new needs; and
- Multi-purpose use of accommodations (use by the employee who is blind and also by customers or other coworkers) makes the accommodation more desirable to employers.

Rehabilitation professionals made these points concerning the ADA complaint process:

- The consumer can request a letter of undue hardship from a small employer, when the accommodation would be a hardship;
- The ADA is basically voluntary because a violation is hard to prove;
- Even if an ADA violation is proven, it just alienates the employer;
- If an employer is mad at a consumer for filing a complaint, retaliation may take place, it can be subtle and even harder to prove; and
- Clients should try to work things out without filing complaints.

Employers told of their experiences interviewing and hiring people

with severe visual impairment and described the accommodation process.

The employers described these successful accommodation processes:

- An employee returning to work with a vision loss after a year's absence did not know what accommodation(s) were available or needed;
- The employer and employee discussed accommodations, but did not come to a conclusion;
- The employer requested technical assistance from a state agency for the blind, and it was determined that ZoomText would probably help; and
- Installing ZoomText onto a single server network was a problem, but the employer's IT specialists resolved it in 2 to 3 weeks.

Employers described these additional accommodations:

- Making photo-copy enlargements;
- Providing front row seating at training sessions;
- Organizing a car pooling program because of anti-smog laws, not because of the ADA;
- Changing an employee's shift to avoid night driving;
- Asking an employee with a disability what she or he needs;
- Talking to other employees sitting near the employee with the visual impairment about what help they can provide, without diminishing their own productivity;
- Making sure the person with the visual impairment has a buddy to help exit the facility in case of a drill or a real emergency;
- Having a separate facilities department with the responsibility to ensure a safe and accessible environment for people with disabilities;
- Opening discussions about accommodations by asking if the person wants to know what you, the recruiter, know about

accommodations, rather than by just telling the person what you know; and

- If necessary, directing the person to a blindness agency, such as a state rehabilitation service.

Employers mentioned the following problem areas:

- There is a misconception on the part of some people with visual impairments that they have all the accommodations they need;
- It can be more difficult to hire a person who does not know what accommodation he or she needs;
- Some computer networks that use proprietary software may not work with speech AT;
- The cost of making a computer system compatible with speech software may be prohibitive; and
- An employer may be unable to accommodate someone who is totally blind, compared to someone with some functional vision.

Employers mentioned the following training issues:

- The state rehabilitation agency for the blind trains the employer's staff, evaluates the work site, and provides job candidates;
- An employer refused to train people with visual impairment on the use of their own computer AT (ZoomText);
- In-house training on disability issues for managers included training on correct interviewing procedures; and
- Disability training is an on-going process, and it should be incorporated into other training programs.

The result of all three phases of this study will help determine what can be utilized from people's experience with the ADA request process. For Phase 1, the informants gave the following suggestions of the best and the worst practices for obtaining accommodations. These are included to

indicate the informants' perceptions of the process, not as usable advice.

- Be the second person to request accommodation, not the first, so as to benefit from a process that is already in place and working;
- Have a VR agency work with you;
- Document, write down the requests made and the results;
- Know what you need;
- Know how to use your AT before coming to work;
- Give advance notice of your requests;
- Pay for the accommodation yourself;
- Never ask the employer for accommodation;
- Be very specific in what you ask for;
- Do not ask for much; and
- Never file a complaint or sue.

The informants were asked to suggest questions for a survey of people with severe visual impairment on the ADA accommodation request process. Unemployed persons with severe visual impairment wanted to know why employers did not provide simple and easy to make accommodations, and why the law did not require this. Most of the questions suggested by the rehabilitation professionals were for other rehabilitation professionals, or employers, or concerned the actions of a rehabilitation agency or a school, rather than the request experience of the individual who was blind, with these following exceptions:

- Are you comfortable bringing up disability-related issues?
- Was ADA, accommodation and equal opportunity employment discussed with you by your VR counselor?
- Was ADA, accommodation, and equal opportunity employment discussed with you when you entered school?

The employers suggested the following questions:

- Who do you normally tell about your disability?
- Who do you talk to about your disability when you come into a company, or apply for employment? (A manager, a recruiter, a human resource manager, a current employee?)
- Where are you having a good ADA request experience and with whom?
- Where are you having a not so good ADA request experience and with whom?
- What is the best way to begin a dialogue about your disability and accommodation needs?
- What is the best approach, or what makes you feel most comfortable talking about your disability and your accommodation needs?
- What is the worst approach or what makes you feel most uncomfortable talking about your disability and your accommodation needs?
- Do you know what accommodations to ask for?
- Do you know what accommodations are available?

Two additional findings are worth mentioning. They go beyond the scope of this project because they refer to the issues of who is covered and what is reasonable. For this study, the definition of legal blindness and the ease of providing certain accommodations make those questions, at least on the surface, moot. However, that is not always true. For example, providing accommodation may not be required in jobs that have stringent health requirements such as the vision requirements for Department of Transportation licenses needed for operating heavy equipment, tug boats, or trucks. As these workers age, some are no longer able to satisfy the vision requirements, but they do not have a severe visual impairment and therefore, are not covered by the ADA. These workers may be better off not revealing their impairment and requesting accommodation.

The second finding has to do with the technological evolution of accommodations. Employers look for new technologies that will work in their job sites. This may involve collaboration between an employer's information technology specialists, rehabilitation engineers and counselors,

and people with severe disabilities. In that situation, employers are going above and beyond making readily achievable job modifications by looking for new assistive technology or new applications of existing technology that did not exist before a person with a severe visual impairment appeared and needed help. Science is making advances and some employers are taking advantage of that, but the ADA and this study focus on providing readily achievable accommodations, not something new and unusual. One VR counselor in this study remarked, "The employer accommodated by letting us work on this for 6 months." That 6-month case may not be an example of the ADA, but rather an engineering feat that is the creation of something new, rather than the provision of a readily achievable change in the work environment or in the way work was performed. Expensive or time-consuming innovation for persons who are blind should not be confused with the ADA request process. On the other hand, just because something is technical, costly, or takes some time to figure out, does not mean it is an unreasonable accommodation. It is possible that the 6 month waiting scenario mentioned by that counselor was reasonable.

Discussion

Research Question Part (a)

Part (a) of the research question sought for the salient information that individuals who are blind or have a severe visual impairment need in order to request a job accommodation. There is more to this process than having a covered impairment, knowing the ADA grants certain rights and responsibilities, and asking for accommodation from an entity covered by the law. The findings of this study, especially the suggestions offered by the informants, reveal some of the complexity and contradictions of the process that have not been previously discussed in the literature.

The first section of the data presentation, the integrated storylines, gave an overview of the process of requesting employment-related accommodation. Further elaboration was provided by listing the elements of the process found in the interviews. The next section presented the informants' suggestions concerning their opinions of the best ways and the

worst ways to request accommodation. The last data listed were the questions informants suggested for a survey of people with severe visual impairment about their ADA request experience. Those last two lists of suggestions are not presented as legal, usable, or effective means of requesting accommodation, or as reasonable questions to ask about the process. Rather, they are included and discussed because they add insight into the informants' perception of the ADA request process.

The interviews revealed that 12 years after the ADA became law, two out of four persons who are blind who were part of the study were refused an apparently simple reasonable accommodation, a reader for a job interview, and that this played a major role in their unemployment. There was no claim of undue hardship and no discussion about how to provide accommodation. Ignorance was offered in one case, but that is no excuse under the law. After an advocate called, one refusal was reversed, indicating the employer belatedly realized that request was proper. The two informants who were employed felt they have been under-accommodated and that their employment was jeopardized as a result. The employed persons were found to receive only limited aid from employers with help such as equipment repairs, replacement, upgrades, and training. There were problems with even the latest technology for the blind. Vendors of assistive technology for the blind were seen as a source of help in determining what is needed, but the feeling that vendors inflate promises because they want to sell a product added to the burden of choosing and using AT. The techniques offered as helpful advice to correct the above problems may seem to be common sense solutions, but, as mentioned below, they are problematic. On closer inspection the advice appears to be contradictory, unusable, and of questionable value.

Even when accommodations are provided and are helpful, the overall work environment may still not be safe and accessible to a person with severe visual impairment. Several of the suggestions made to offset this problem, such as to educate people on ways to assist a person who is blind, or to educate people about disabilities in general, are already required by the law. Instead of the covered entity doing this on an on-going

basis, it may be left to the employee with a disability to provide the instruction needed. Informants in this study noted that staff turnover complicates the education process. Coworkers, line supervisors and managers change jobs, which then requires on-going training efforts, which drains the time and energy of people with disabilities.

Another barrier, even when accommodations are provided, is coworkers' negative responses to being asked for help by persons who are blind. Crudden and Fireison (1997) and Lee (1996) also found problems with coworkers' responses, but in the present study, the people involved were cognizant of that issue and thought they were able to deal with it. They were surprised by their failure in a situation they felt competent to deal with. Even with knowledge of the problem and the skills to address it, integration into the workforce was problematic for the informants due to limited supports, and unforeseen issues of incompatible technology that required more help from coworkers than initially anticipated.

The ADA requirement to provide accommodation is running into systemic barriers in initially providing simple accommodations, the integration of new technological accommodations, and in the education of both management and workers. Those barriers in turn lead to such things as alienation from coworkers and depression in persons with disabilities that could lead to the avoidance of seeking accommodation, or seeking and remaining in employment. One employer, in a telephone marketing environment, was proactive in addressing these concerns by instructing coworkers that any help the coworkers provided to the employee who was blind should not be given at the expense of their own productivity. Such specificity may not be possible for all job situations. However, even where it is possible, it seems to ignore the reasonable ongoing, though sometimes hidden, costs of hiring a person with a severe disability.

The idea that there is a one-time answer, or one solution for a worker's needs, with a minimum of follow-up, is a conceptualization of the ADA request process, and of the needs of people with severe disabilities that is a barrier to the request process. The perspective required for any

success is to “do what it takes to get the job done,” rather than “perform step one, two, and three, and then give up.” This concept of unspecified, open-ended needs, though reasonable, adds uncertainty to the process. Entities with more employees may have resources available when needed, but larger entities are often organized into small units. A department head within a larger entity may not have the financial, manpower, or technical resources to provide accommodation help when needed, and an individual with a disability, knowing the effort required, may be afraid to request help.

A person who is blind who is given a conditional offer of help, may not be able to recognize those conditions, and so he or she may not know when a coworker is available to help, or is not available to help. The need for help is not always predictable in advance and on schedule. Such problems do not mean accommodations are difficult or expensive. It requires a concept of reasonable accommodation beyond the idea of “a thing,” or “a helping action.” A team or cooperative approach to work may be the reasonable accommodation needed, but that understanding was lacking even in successful examples given by the informants in this study.

All three groups of informants emphasized the essential role of the skills, knowledge, and financial support of state VR counselors and technology experts in the ADA accommodation request process. The involvement of VR is, of course, not required by the ADA. Each entity covered by the law is required to be able to meet the law’s provisions. How they go about that is left up to each entity. State VR services are one tried and proven source of expertise and accommodations. Using VR resources, rather than requiring the employer to pay for accommodations, was labeled “subverting the ADA” by a rehabilitation counselor. Further, an individual who is blind and who was refused further help by the state VR agency noted, “Our hands are tied without VR.” An employee was afraid to ask for help from her employer, so she instead went back to her VR counselor. Both employers interviewed utilized and appreciated VR services that relieved them of some of the costs and responsibilities of accommodating persons with severe visual impairment. Those costs are, of course, being

picked up by the government and taxpayers. The VR counselors felt that if they did not "subvert" the ADA, people who are blind would not get jobs.

The lack of knowledge about the ADA request process was mentioned or evidenced by all three groups. The major knowledge issues concern what to teach and who has responsibility for proactive teaching; that is, not just answering questions about the ADA which is what DBTAC counselors do. The two VR counselors thought it was their responsibility to teach their clients and employers about the ADA, which they were loath to do because they felt it would interfere with and even impede their job of placing clients. One person who was blind was refused accommodation so often, she did not know the ADA applied to people who are blind, but thought it only had to do with things like wheelchair ramps. The employers interviewed for this study were willing to try to accommodate and sought help for this, and they did accommodate, when they felt it was within their ability to do so. The results of this study suggest that expanding employers' understanding of their ability to accommodate, not just their responsibility, needs to be part of an ADA education program. However, people who are blind and rehabilitation counselors reported that some employers simply refuse to provide reasonable accommodations to applicants or employees, such as readers, evaluation, AT, or training. Surprisingly, one employer confirmed this practice, perhaps because of a lack of knowledge of the ease of teaching someone how to use a program like ZoomText.

One employer made the clear distinction that hiring and providing accommodation to persons with some functional vision was possible, but, that it was not possible to hire or accommodate persons who were totally blind for that company's jobs. That recruiter did not consider it reasonable to accommodate a person who was totally blind and thought that people needed to know that technically, accommodation was not always possible. A rehabilitation counselor also noted that sometimes accommodation for a job is not possible, but added that the IT specialists in some companies that have a proprietary software system do not want to work with outside AT programs like screen readers. Company personnel may not want to

work with outside specialists who might easily write the computer script that would make speech software compatible with a company's proprietary software system. When employers refuse to even investigate how to provide accommodations, the ADA process is thwarted,

The suggestions offered for requesting accommodation indicate an expectation of encountering difficulty when requesting accommodation. Although some of the ideas appear to be common sense, they are not necessarily viable when viewed in action. For example, the value of knowing what to request is refuted by the present research. People who knew what they needed (readers) were refused this help, and a person who did not know what he needed (ZoomText) was accommodated. The easy request was refused and the more difficult accommodation was provided. This contradicts common sense. Other unsuccessful requests for computer AT came from an applicant and an employee who did know what to ask for and they both also knew how to use the accommodation. If an employer's fear of loss of control is an issue, as Harlan and Robert (1998) suggest, it may be preferable for a person with a disability not to appear controlling by being the "expert." In some cases it may be better to let the employer discover the accommodation. The results of this study expose these issues, but the explanation or resolution of these problems is not yet clear. The idea of selling the ADA, or educating people about the ADA by making accommodations seem easy, inexpensive, and profitable may not sufficiently take into account the nature of discrimination or the culture of the work environment, or the reality of accommodations.

The suggestion to "know what accommodation you need." will not necessarily be helpful. In addition, an applicant or employee may have no way of knowing the type and cost of an accommodation needed for a particular job he or she may never have done before. Further, the level of the technology of a particular work site, and the employer's assets and ability to create or pay for accommodations are not information employees or applicants can readily access. An employee or job seeker can research the affairs of a company to some degree, but the information needed to

know what accommodation is needed, or what level of technology is being used at a particular work site is usually not available to the public.

Even in an organization that is accustomed to providing accommodations, an individual may be uncertain as to the appropriate level or cost of accommodations to request, leading to the question of whether he or she is an expensive employee who is receiving more than his or her coworkers. If the individual researches information about accommodations, he or she may have to weigh the conflict of interest of vendors who offer advice on ways to solve problems, but who are also promoting their own products. These are added, and perhaps unwanted burdens for the person who is blind or has a severe visual impairment.

Another suggestion was to know how to use the AT needed for the job. A recruiter said the company would teach the person how to use the company's computer system, but emphatically stated the company would not teach a person how to use his or her AT. However, the cost and effort of evaluating, training, or providing the AT being discussed in that interview (ZoomText), would not be an undue hardship to that very large national employer. Another employer offered as an example of a successful accommodation process, the case of a worker returning from medical leave who did not know how he would access his computer after his vision loss. Contrary to the first employer's practice, the evaluation and training in how to use the AT was provided on the job. In that case, however, it was the state VR service that did the AT evaluation. The employer paid for the software, ZoomText, and found it took only a few minutes to teach the employee to use it. Learning to use and teach simple accommodations such as screen enlargement software, readers, tape recorders, computer font enlargement, or photocopy enlargement requires little cost, effort, or time, but may be refused nonetheless. The lack of knowledge, or the cost, and effort required are not necessarily the reasons for success or failure with such simple, easy-to-provide accommodation requests.

When technology issues are a problem, it is up to the employer to overcome them, but this is sometimes left to the employee with the visual

impairment. One employee in this study was ready to quit because of this, but at the last minute outside financial resources were made available to provide a more current computer so her speech software program would function. In another case the employer's IT team put in a 2-week effort to make ZoomText work with their computer system. It is not known if that was an undue hardship to the company. The company did the work and did not claim it was an undue hardship. The other recruiter disclaimed technical expertise, but stated that making their system work with speech AT would be an undue hardship costing millions of dollars. It is not possible to confirm or refute that claim without an investigation by IT experts. It is also not known if that company's system was developed after 1990, when it was required to be built to be accessible if reasonably possible. These are not things an applicant or employee who is blind has prior knowledge of, or is usually privy to. A person with a severe visual impairment may be unable to follow the advice to know, in advance, what to request. Another piece of information that was suggested as useful to find out, was the name and title of the unidentified person who may be violating the ADA by refusing to provide a reasonable accommodation. Such potentially incriminating information is not easily obtained even by a person with sight.

Another common sense idea informants suggested is to give employers advance notice of accommodation needs. This indicates an expectation of encountering a lack of preparedness to provide reasonable accommodation on the part of an entity. It also frames accommodation as something special or difficult to do. One individual who gives advance notice when requesting a reader said she repeatedly heard employers say, "We don't know what to do, we never had someone like you apply for a job before." She said they often did nothing. They refused to interview her at all. The only advantage to giving advance notice in those cases was in her not wasting the time and effort to make the trip to apply for a job with an employer who was not willing to accommodate her, even for the job application process during an initial interview. She never received signed statements that her requests were refused. The EEOC or a court is not likely to examine her experiences. The description of the receptionist jobs

she sought suggested she believed she was qualified and should have been hired. Her voice relayed her frustration at this. This advice suggests that people with a severe visual impairment are not doing the obvious, but could improve their employment chances if they did. However, knowing what is needed, how to use it, and requesting it in advance may not help a person receive an accommodation the employer does not want to provide.

Another suggestion was to write down requests. That may have a psychological effect on the covered entity and the requester, but may not serve any other purpose because such written notes would not likely help in the ineffective complaint process. The lack of enforcement of the ADA was clearly noted by several informants. Filing a complaint was considered an option only as a last resort, when a person had already been fired and there was nothing left to lose. A person with a severe disability has the right to request reasonable accommodation and to file a complaint if it is not provided, however, the informants in this study agreed that the complaint process is likely to be frustrating, futile, and may invite retaliation against the person who pursues this redress. Animosity from the employer and failure were seen as the possible results of the ADA complaint process.

The informants described contradictory responses to requests for accommodation. Employers may respond positively or they may reject requests and offer no explanation as to why they refused. Employers may discourage or ignore requests, or discuss and negotiate accommodation needs with an applicant or employee. Counselors can help a person by role playing the request process and by suggesting ways of proceeding with a request. On the other hand, a counselor may discourage a person from making ADA requests or from filing complaints out of concern that it will disrupt the person's progress toward employment. A person who is blind or has low vision may find that additional help from a VR agency will be provided, or even that he or she can always go back to the VR counselor for help. On the other hand, a person may find that at some unspecified point they will not receive any more help from a state rehabilitation agency even though more help is needed.

All three groups of informants also made it clear that even when accommodations are provided, there may be difficulties and frustration with the process and the product(s). Accommodations may only function as anticipated part of the time, thereby hindering job performance, or they may not function at all. It can take 3 to 6 months to create a stable, usable accommodation. This may occur during the time when a new employee is anxious to make a good impression, and it is not necessarily the fault of the product(s) being used. AT for the blind may not work if the employer's equipment is too old, or too specialized, or if the employer's IT specialists do not help with the process of integrating it into the employer's system. In addition, the route for follow-up support may be unknown and different than the process other employees go through when equipment problems occur. Additional accommodations may be needed in addition to those that were first requested, and these may be unfamiliar to the employee. It may require more time and effort to learn to use these unexpected, new, and often-changing accommodations. Even someone who is obviously blind may be asked to provide medical documentation of the need for some new accommodation. Sometimes, when a job was, or seemed like an ideal work site, accommodations are not possible.

Research Question Part (b)

Part (b) of the research question sought to identify the major factors influencing the likelihood of individuals with severe visual impairments requesting and receiving a job accommodation. One factor, personality, was mentioned both in the literature and in the interviews. An informant said she was raised to not be assertive and never express anger, but that she had to learn to do both for the accommodation request process. Another informant said her mother was her role model of a person with an assertive and confident approach to resolving problems in life.

A major systemic factor that emerged as influencing the likelihood that an individual would request and receive a job accommodation is that

the person have the help of a state VR counselor to provide all or most of the accommodations, including evaluation, training, and follow-up. In addition, receiving a job accommodation is more likely in a situation where there is a history of a willingness to hire and accommodate persons with severe visual impairment. It will also help if the accommodations requested fit into and do not exceed the customary parameters for accommodation. Another significant factor was the existence of unexpected and unusual sources for financing accommodations.

In order to insure that the accommodations will function and that the job can be performed successfully, another major factor is the existence of a support network. This may consist of friends, or state VR and blindness specialists, and an employer's IT specialists who can be called on for help. It is also important to be aware that there are multiple areas that need to be considered, such as transportation needs, that may require additional accommodation. It is reasonable to assume that there will always be more than one accommodation required in order for an individual who is blind to obtain and retain employment. Viewing each need for accommodation in an isolated case by case manner is not an effective approach. The overall access to the environment must be considered, not just a piece of it. All the steps to work, and for doing work must be considered for access to employment. A systems, or holistic view will help people with severe visual impairment receive appropriate and functional job accommodations. Furthermore, when an individual has confidence that this will take place, he or she may be more likely to request accommodations per the ADA.

The purpose of Phase 1 of this study was to examine the ADA request process in order to discover the salient information needed by requesters and to find the factors that influenced ADA requests. One goal of this was to create a survey of the request process. Where possible, the elements listed and discussed above have been turned into questions for the proposed survey. The literature and the interview material were examined to find the content and range of questions needed to capture: the who, what, where, when, why, and how, of a request situation, as well as

the processes, structures, the antecedent events, and the resulting effects. Some questions also came from the researcher's experiences, or were suggested by the PAR Team, or by colleagues. The draft sample of items that were created thus far are listed in Appendix B. These will be refined further during Phase 2 of the project. The survey instrument will be pilot tested before being used with a larger sample.

Strengths and Limitations of the Study

The effects of the ADA on the employment outcomes of people with severe visual impairment were examined with a qualitative interview study of the accommodation request process that built upon the means for evaluating the ADA suggested in the literature. Burris and Moss (2000) suggested researchers can determine the law's effect on disability discrimination by looking at those who comply with, and those who rely on the law. That approach was employed for this study and expanded upon by including the perspective of rehabilitation professionals who work with both employers and persons with disabilities. The findings from this 3-sided approach supported and expanded previous knowledge concerning the effects of the ADA on disability discrimination. In addition, focusing on an impairment (blindness) and accommodations that were used as examples in the ADA and are not disputed, added clarity to the process of evaluation.

Before presenting the conclusions of the first phase of this project, the limitations of the study should be emphasized. This was a qualitative study with a small and purposefully chosen sample. The findings and conclusions drawn from them may be a product of the sampling process. Also, this type of research does not allow an estimation of the prevalence of the problems or successes of the ADA, or the effects of demographics such as gender, race, age, level of education, type of accommodation, or type of job on the ADA request process. Therefore, it is important not to generalize too far beyond the situations of the interviews. It would help to balance the picture painted by this project by adding input from people with severe visual impairment who never had to request accommodation. The study is also limited because a single researcher was involved with both

the interviews and the analysis. However, feedback from PAR team members, informants, and colleagues offset that limitation to some extent. There is little research concerning the working of the ADA request process. Further sampling with a survey created from this study will begin to demonstrate which of the elements found are most relevant and prevalent and may suggest a range of variation to those factors. The above findings are tentative, as are the following conclusions drawn from them. Determination of their veracity, pervasiveness, and frequency must wait until larger samples are contacted.

Conclusions / Implications

At this juncture in the 3 part research project it appears that the ADA ladder of equal opportunity is precariously balanced on ineffective enforcement and inadequate education of all stakeholders, all-the-while leaning against a multi-faceted wall of resistance to the law. The ladder may not be broken, but requesting accommodation is difficult and people avoid it, or avoid using more than the bottom rungs. The stable stairway of a state VR agency does not reach as high, but it is more secure, and may be the major source of the ADA accommodations now being provided.

The major areas of concern with the ADA accommodation request process found in this study are; resistance by employers; refusals to discuss or provide accommodation; the failure of the enforcement process; technical difficulties with assistive technology; the lack of knowledge about the process; and the effects of all the above on motivating job seekers and employees who are blind or have a severe visual impairment to entirely avoid the ADA accommodation request process and even employment.

The following conclusions concern the role of VR counselors in regard to the ADA.

- **It is not in the interest of some state VR counselors to challenge the status quo, that is, employers not paying for accommodations. Therefore, they will not press this issue.**
- **To carry out their job of placing clients, some VR counselors will discourage clients from making accommodation requests and they will ignore, disparage, or "subvert" the ADA rather than be involved in the request process.**

The reasons for this may be habit, or it may be the VR counselors' desire to avoid conflict. It may be they have correctly evaluated the extent of disability discrimination and the negative effects of the ADA and therefore try to avoid harm to their clients, per their ethical responsibility. Whatever the cause, those findings were noticeable, both in the literature and in the interview study. The following conclusions concern the effect of the ADA on the relationship between VR counselors and employers.

- **As a result of the ADA some employers may have developed an openness to, and a reliance on, government rehabilitation services rather than to shift those services and costs to themselves.**
- **The ADA is being utilized by some employers as an amendment to RSA's mandate, rather than being a separate civil rights law.**

This is not the same as conceptualizing the ADA to mean the employer will create equality of access by providing, maintaining, and instructing someone in using alternative tools or methods for a job or job interview. It means that some employers may allow accommodation to take place if someone else provides it. This interpretation can exist because the ADA does not mandate the ultimate funding sources for accommodations.

This raises the following issues: Has the ADA added a financial burden to VR services? Are limits to VR resources a bottleneck in the ADA accommodation process? Is there a need for a new system to empower consumers of rehabilitation services in order to balance this additional influence flowing to VR counselors as a result of the ADA?

Another finding of this study that is not surprising is that there is a lack of knowledge concerning the ADA and available accommodations. It is understandable that teachers and counselors of people who have a severe visual impairment seek to address this lack of knowledge by teaching and counseling people with visual impairment, since that is what they are accustomed to doing and may be the only path available. However, information is already available to employers on how to accommodate persons who have severe visual impairment. Adding this burden to people with severe visual impairment ignores the sources of discrimination, the responsibility the ADA places on covered entities, and furthermore, such teaching may not be effective. To emphasize the role of education underestimates the nature of disability discrimination. In addition, lack of knowledge may simply be a convenient acceptable excuse used to avoid changes or costs required by the ADA.

- **There is a lack of knowledge about the ADA among people who are blind, rehabilitation counselors, and employers.**
- **It is important to discover the sources and the content of the information about the ADA that is being shared.**

People may hear about the ADA from friends, or the media, or draw conclusions from their own experiences. Many people with disabilities, as well as rehabilitation professionals and employers have had no formal training about the law, about how to implement it, or what to expect from it.

Research indicates that some systemic changes are being made to the employment environment and to hiring processes. Some employers

allow flextime, make modifications, purchase accommodations, and provide training in alternate methods of performing a job. Some help with transportation is available. Nonetheless, the evidence from this study and from the literature indicates that the following final conclusions are crucial to investigate in order to guard against doing harm to people with severe visual impairment.

- **Requesting reasonable accommodations may hurt employment opportunities for people with severe visual impairment.**
- **People with severe visual impairment need to be informed of the potential for adverse effects resulting from their requesting reasonable accommodations from an employer, before they run into them, in order to have the choice to avoid those problems.**
- **Concrete definitions of requesting “not much,” or requesting “too much” accommodation need to be developed and shared with people who are blind or have a severe visual impairment.**
- **The refusal to accommodate may discourage and depress people with severe visual impairment who face the failure of the ADA in addition to the problem of disability discrimination.**

In addition to being refused accommodation, people with severe visual impairment face the added insult of being blamed for their failure to be accommodated. The victims of discrimination are blamed for being the cause of the very discrimination they suffer. They are labeled demanding because of requesting reasonable accommodation - regardless of their actual request behavior. They are criticized for poor communication and negotiation skills and face reproach because of being ignorant of their accommodation needs even in situations where they have no idea what is needed, and no way of finding this out. They may be faulted for requesting unreasonable accommodation when no claim of an undue burden is made, and be charged with asking for too much help from coworkers, and suffer

damaged relationships with coworkers and employers as a result.

When people who are blind are told they have the right to request a reasonable accommodation they are being invited into a confrontational situation, fraught with contradiction, confusion, and frustration. The ADA has not eliminated disability discrimination or perfected the accommodation process or products. The result is that some people find the ADA request process too distressing and choose not to request accommodation, or to not seek employment. These obstacles are likely to continue after a person obtains employment. Some people may decide to retire because of the daily hassles and discrimination they encounter. On the other hand, others are able to find and maintain employment despite these obstacles. This may be due to their own strengths, to their support network, because they work with a skilled VR counselor, or because they work for an entity where there is an ability and a willingness to provide functional accommodation.

These conclusions are not a surprise. In 1990, Congress found that discrimination negatively affects the employment of people with disabilities. The law to rectify that problem is only 13 years old. Baseline data and precise, periodic, systems level and individual level data on how the ADA request process is working are needed to measure its effects.

It is vital that persons with severe disabilities be surveyed to find out if they make ADA requests, what they request, and exactly what they experience because of this process.

Some people consider being blind a mere inconvenience, while some find it a severe disability. There is no doubt a wider range of experience with the ADA than touched upon in this report and a greater depth of will and ingenuity in people with disabilities to survive and thrive despite adversity. One informant said of ADA requests, "If people can advocate, they should. It will help those who cannot or choose not to advocate for themselves." This reveals that requesting accommodation is seen as an act of advocacy and not as just exercising the right to equal access. It does not function in the same way as other protected civil rights. The author has

often heard rehabilitation professionals say of failed ADA requests, “Good try; you helped pave the way for those who come after you.” Such words of encouragement aptly frame the ADA as a social experiment, but it is an experiment that may be causing harm to people with severe disabilities.

Another informant said, "Until the ADA request process works as smoothly as it should, we have to keep evaluating it." At the present time, there is little record of the working of the ADA request process, or of the effects of the ADA. The problems revealed in this report may be intractable or irremediable, but it is important to evaluate how the ADA is actually affecting employment outcomes. The findings of this study need to be revisited with a survey of a larger sample. The survey based on this study will help evaluate the ADA accommodation request process in order to begin to analyze the role and potential of the ADA in increasing job opportunities for people who are blind or have severe visual impairment.

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APPENDICES

Appendix A ADA: A Brief Overview and Congressional Findings

Appendix B Draft Survey Instrument

Appendix C Best and Worst Practices

Appendix D Interview Guide and Member Check

Appendix A

ADA: A Brief Overview, Retrieved December 3, 2002, from <http://www.jan.wvu.edu/links/adasummary.htm>

Signed into law on July 26, 1990, the Americans with Disabilities Act is a wide-ranging legislation intended to make American Society more accessible to people with disabilities. It is divided into five titles:

1. Employment (Title I) Business must provide reasonable accommodations to protect the rights of individuals with disabilities in all aspects of employment. Possible changes may include restructuring jobs, altering the layout of workstations, or modifying equipment. Employment aspects may include the application process, hiring, wages, benefits, and all other aspects of employment. Medical examinations are highly regulated.
2. Public Services (Title II) Public services, which include state and local government instrumentalities, the National Railroad Passenger Corporation, and other commuter authorities, cannot deny services to people with disabilities participation in programs or activities which are available to people without disabilities. In addition, public transportation systems, such as public transit buses, must be accessible to individuals with disabilities.
3. Public Accommodations (Title III) All new construction and modifications must be accessible to individuals with disabilities. For existing facilities, barriers to services must be removed if readily achievable. Public accommodations include facilities such as restaurants, hotels, grocery stores, retail stores, etc., as well as privately owned transportation systems.
4. Telecommunications (Title IV) Telecommunications companies offering telephone service to the general public must have telephone relay service to individuals who use telecommunication devices for the deaf (TTYs) or similar devices.
5. Miscellaneous (Title V) Includes a provision prohibiting either (a)

coercing or threatening or (b) retaliating against the disabled or those attempting to aid people with disabilities in asserting their rights under the ADA.

The ADA's protection applies primarily, but not exclusively, to "disabled" individuals. An individual is "disabled" if he or she meets at least any one of the following tests:

1. He or she has a physical or mental impairment that substantially limits one or more of his/her major life activities; 2. He or she has a record of such an impairment; or 3. He or she is regarded as having such an impairment.

Other individuals who are protected in certain circumstances include 1) those, such as parents, who have an association with an individual known to have a disability, and 2) those who are coerced or subjected to retaliation for assisting people with disabilities in asserting their rights under the ADA.

FINDINGS OF THE UNITED STATES CONGRESS

The nine findings of the United States Congress concerning the status of persons with disabilities in the United States recorded in Public Law 101-336 (The ADA Statute). Retrieved February 13, 2003, from <http://www.usdoj.gov:80/crt/ada/pubs/ada.txt>.

SEC. 2. Of THE ADA FINDINGS AND PURPOSES

(a) Findings.--The Congress finds that--

- (1) some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;
- (2) historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;
- (3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;
- (4) unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;
- (5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;
- (6) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and

educationally;

(7) individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;

(8) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(9) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

Appendix B

Draft Survey Instrument

Information is needed on the experience of people with disabilities with the ADA accommodation request process, including whether they use it and whether it is effective. The 82 question instrument can be shortened by using the 23 Opinion and Feeling, and/or the 12 Knowledge questions separately. Most of the questions are appropriate for people with any type of disability who have clear and common accommodation needs. For example: “Did you ask for accommodation?” “What did you ask for?” “Were you involved in a discussion about your request?” “Did you receive what you requested?” and “Did you receive something else?” would be useful to ask of anyone with any disability covered by the law. The survey will probe for a brief description of the employer, and inquire into the efficacy of the request process and of any accommodations that were provided, and whether they resulted in obtaining, retaining, or advancing, in employment. A survey will not determine the validity of any request or complaint, but it will begin to describe the functioning of the ADA.

This survey concerns the experience of people with a severe visual impairment, between the ages of 18 and 64, with the accommodation request process of the Americans With Disabilities Act. Questions relate to accommodation requests made in five areas: (1) schools attended after age 18, (2) private service providers, (3) government agency service providers. (4) job applications and interviews, and (5) employment. Requests may not have been made in each of the 5 areas. Each person will probably not have answers to the questions for all the above 5 areas.

To indicate if an entity is covered by the ADA for requests made during job interviews and to an employer on the job, questions are included that will target the size of the employer (15+ employees?) for 2 types of employers, (1) for-profit employers, and (2) not-for-profit employers, and whether the not-for-profit employer was a religious organization. There is no size limit for the 3 types of government employers, (3) federal, (4) state, and (5) local.

To obtain baseline data and current data, the first 17 questions can be asked for 2 different time periods. First, in the past 12 months, and second, since 1994, but before the past year. The questions concerning the 3 service sectors: schools, private service providers, and government service providers, may indicate services that are vital for employment. The 2 employer-directed questions are for job applications and while working. The survey will probe for: 5 different kinds of employers (private for-profit, private not-for-profit, and federal, state, or local governments), the size of the non-government employer, and if the private, non-profit employer is a religious organization. This results in 26 possible answers for the first 17 questions. However, each respondent may not have been involved with all or many of those areas and may skip some parts of each question.

Part 1 - Experience (23 questions)

Questions 1 - 17 should be answered for two time periods (a) In the past 12 months, and (b) before the last 12 months, but since 1994.

1. Did you ask for accommodation because of your visual impairment:
 - (i) From a school you attended after you were 18 years old?
 - (ii) From a service provider (such as a restaurant, a hotel or motel, a bank or credit card company, a theater, a retail store or mall, a phone company, a gas and/or electric company, a transportation company, the Post Office, or some other private service provider)?
 - (iii) From a government agency service provider?
 - (iv) For a job interview or application? [Indicate type of job [1] to [5] below]
 - (v) For your job? [Please indicate type of job [1] to [5] below]
 - [1] From a private, for-profit employer? Did the employer have 15 or more employees?
 - [2] From a private, not-for-profit employer? Did the employer have 15 or more employees? Was the employer a religious organization?
 - [3] From a federal government employer?
 - [4] From a state government employer?
 - [5] From a local government employer?

{Answer the next questions, 2 to 17, for each section above that applies (i to v) and [1 to 5], and for two time periods, (a) the past 12 months, and (b) before the past 12 months, but since 1994.}

2. What accommodation(s) did you ask for? (Please list the most important things you requested.)
3. Did you receive what you requested?
4. Did the accommodation(s) you received function at least as well as you expected?
5. Did the accommodation(s) help you to:
 - (a) Obtain employment?
 - (b) Retain employment?
 - (c) Advance in employment?
65. Did you receive some other accommodation(s) instead of what you requested?
7. Did the substitute accommodation(s) you received function at least as well as you expected?
8. Did the substitute accommodation(s) help you to:
 - (a) Obtain employment?
 - (b) Retain employment?
 - (c) Advance in employment?
99. Did you participate in discussions or negotiation concerning your accommodation request(s)?
10. Did you participate in discussions or negotiation concerning the substitute accommodation(s) you received?
11. Please estimate how often you received the accommodation(s) you requested. (Likert scale for answers)

12. Were you ever refused accommodation?
13. What reasons were given for the refusal?
14. If you did not receive accommodation, did you attempt (a) to appeal, (b) to mediate, (c) to file a complaint, or (d) to file a lawsuit?
15. What was the result of your attempt to appeal a refusal to provide accommodation? (Won, lost, still in process, for a, b, c, and/or d)
16. Were you a client of a rehabilitation service at the time you requested employment-related accommodation from an employer?
17. Who provided, or paid for the employment-related accommodations you received?
18. if you have not requested an employment related accommodation from an employer because of your visual impairment, please indicate why. (For the past 12 months, and before 12 months, but since 1994.)
19. Did you have to make multiple requests for the same accommodation before you received it?
20. Have you been asked to pay for, or share the cost of, an employment-related accommodation you requested?
21. Please indicate who you request accommodation(s) from, (e.g., Human Resources or Personnel Department, a supervisor, a coworker)
22. Please indicate when you disclose your need for accommodation.
23. Have you experienced retaliation as a result of requesting employment-related accommodation? (If yes, please describe)

Part Two - Transportation / Mobility (9 questions)

24. Have you requested an accommodation for help with transportation from your employer? (If yes, please indicate what you requested)
25. Has your employer included you in emergency planning for persons with disabilities? (Such as pairing you with someone to help you leave the building in case of a fire or tornado drill, or an actual emergency.)
26. Are the building signs (such as room numbers, names, directions, or exit signs) at your place of employment in Braille, or in a tactile or large print format that you can access?
27. Have you requested (i) barrier removal, (ii) on-site mobility training, or (iii) other changes in order to allow you to move about the workplace (such as having clear aisles, contrast paint on floors or stairs, removal of objects protruding from walls)? (Please indicate request.)
 - (a) Were your requests granted? (Please indicate what you received, and what requests were not granted.)
 - (b) Were you instructed about the changes?
 - (c) Were you instructed about the layout of the workplace?

Questions # 28 to 32 are for dog guide users

28. Have you requested accommodation because you use a guide dog?
29. Have you experienced problems with dog guide accommodation issues in the workplace? (e.g., getting a time to walk the dog; a place to walk the dog, coworkers touching, feeding, or distracting the dog, dealing with people who are uncomfortable with, or allergic to the dog)
30. Do you find at work, or during a job interview, that people violate guide dog etiquette?

31. Do you believe you were ever refused employment because you use a dog guide?

32. Did you ever decide to not take your dog to a job interview because you felt you might not get the job because of the dog?

Part Three - Knowledge (12 questions)

33. Where did you learn about the Americans With Disabilities Act (ADA)?

34. Where did you learn about the accommodations you requested?

35. Please indicate where you learned to use the accommodation you requested from an employer.

36. What year did you learn you have the right to request accommodation or barrier removal because of your visual impairment?

37. Do you know how to request an accommodation?

38. At your place of work, do you know who to go to in order to make an accommodation request?

39. Do you know how to get help with making accommodation requests?

40. Has there been any training provided at your place of employment concerning the ADA?

41. Did you document your requests for employment-related accommodations?

42. How have you requested accommodation? (i.e., in writing, on paper via e-mail, verbally, in person, or over the phone.)
43. Did you give advance notice when you requested accommodation?
44. Has anyone suggested that you not request accommodation? (Who?)

Part Four - Opinions / Feelings (23 questions)

45. Do you find the people you make a request to are willing to help?
46. Would you prefer receiving accommodations without making requests to your employer?
47. Do you feel you need help with requesting accommodation?
48. Do you find you have to initiate every accommodation request for your visual impairment?
49. Do you have to teach everyone who might provide an accommodation, the things related to your needs as a person with a severe visual impairment?
50. Have employers offered you information about the accommodations you could ask for?
51. When you've asked an employer for an accommodation, did you sense a negative attitude?
52. When you've asked a coworker for an accommodation, did you sense a negative attitude?
53. Do you feel it is just too much of a hassle to request accommodation?

54. Have you ever been concerned about retaliation if you request accommodation?
55. Have you ever been concerned about retaliation if you request someone's help in obtaining accommodation?
56. Have you ever been hurt because of requesting accommodation?
57. Have you ever felt there is a deliberately slow response to your requests for accommodation?
58. Have you ever felt intimidated about asking for accommodation?
59. Do you feel comfortable requesting accommodation?
60. Over all, are you satisfied with the accommodation request process you have experienced?
61. Do you feel that, due to the accommodations you require, you are an expensive employee?
62. Do you feel you are being ungrateful if you complain about the accommodation(s) you have received?
63. Do you feel others would perceive you as being ungrateful if you complained about the accommodations you received?
64. Does asking for an accommodation make you feel you are less competent than other employees?
65. Are you certain you are eligible to request accommodation?
66. Did you find that requesting accommodation is difficult?
67. Do you feel you will likely get an accommodation you ask for?

Part Five - Demographic Information (15 questions)

68. What is your age?
69. What is your gender?
70. What race/ethnicity do you consider yourself to be?
71. What is the highest education level you have completed?
72. Are you employed?
 - (i) If you are working, (a) Do you work full-time? (35+ hours),
(b) Do you work part-time? (less than 34 hours)
 - (ii) If you are unemployed, are you seeking employment?
 - (iii) How many job interviews have you had in the past 12 months?
 - (iv) Since you have had a severe visual impairment, how many years,
(v) both-full and part-time have you worked?
73. What is your individual income?
74. Do you live in a: (1) city, (2) suburb, or (3) a rural area?
75. What State do you live in?
76. What is the severity of your visual impairment?
 - (a) Do you have low vision? (b) Are you legally blind?
 - (c) Do you only have light perception? (d) Are you totally blind?
77. How old were you when your visual impairment began to interfere with your daily activities?
78. How old were you when you first requested accommodation on your own (apart from school grades K-12)?
79. Are you a member of a blindness consumer organization? (Specify)
80. Do you have other severe impairments?
 - If yes, what other severe impairments?
 - if yes, did you ask for accommodations because of this?
 - If yes, what do you request?
 - If yes, did you receive them?

Two Concluding Questions

81. If there is anything you would like to include about your experience with requesting accommodation(s) that was not covered in the survey, would you please share that now.
82. There may be additional questions we will need to ask for this project. May we contact you for this? (If yes, please provide a phone number)

APPENDIX C

Informants Suggestions for the Best and the Worst Practices for Requesting ADA Accommodations

Note: The following list of suggestions of the best and the worst practices is divided according to source, but the sources overlap. Some items came from one or two groups, others came from all three. They are included here because they indicate success strategies and problem areas with the request process that need to be explored. They are not necessarily useable, effective, or legal suggestions.

People who are blind suggested:

Use an intercessor / ombudsman.

Give advanced notice; call ahead of time and arrange accommodation.

Know what you need.

Know your right to request what you need.

Be the second person, not the first who requests an accommodation.

Work at a place that already has procedures for accommodation.

Apply for a job without using your guide dog; use a sighted guide.

Be a client of VR services and get what you need from them.

Pay for the accommodation yourself.

When asking for reader assistance, break reading material down into manageable pieces so it's not overwhelming to a reader.

Know how to talk about your disability and accommodation needs in a positive manner.

Learn to take a more adversarial stand.

Work on assertiveness skills.

Learn toughness.

Be your own best advocate.

Respond politely.

Do not be aggressive or angry.

Provide purchasing information (cost and sources).

Prioritize requests.

Be very specific. Use the words, 'I'm asking for an accommodation. I'm

a person with a disability and I need this accommodation in order to do the work."

Do not automatically ask for the most expensive and most current equipment.

Ask for what you can use.

Ask for what you know how to use.

Don't ask for something that you didn't think you would get.

Get requests for medical documentation in writing.

Document what happens.

Write down what was requested, the date that a request was made, and to whom, and the response.

Put in writing what you need, what you want, and why you think you would benefit; make a clear case.

Administration should educate people about (a) proper guide dog etiquette, and (b) proper ways to assist a person who is blind or visually impaired.

All staff should be educated about disabilities in general and about specific needs of individuals with disabilities in the building.

Rehabilitation professionals suggested:

Do not ask for accommodations right off; it's better to begin along the lines of "Can we explore accommodations?"

Always pay for everything and don't ever push the ADA button.

Do not request accommodation from an employer.

Get the employer invested in fighting for that same accommodation.

Request a letter from the employer stating it would be an undue hardship for the employer to provide the accommodation.

Try to work issues out without making a formal complaint.

Do not file a complaint or sue.

Develop a process to think through an accommodation issue.

Problem solve alternate ways to do the work or to get accommodation.

Suggest alternative approaches to a situation (mediation, negotiation).

Role play the request process with someone other than the employer.

Contact the ADA network hotline for more information.

Employers suggested:

The employer can work closely with the state rehabilitation agency.

The person who is blind or has a severe visual impairment should know how to use the assistive technology or other accommodation needed.

The employer can talk to the people (coworkers) seated next to the employee who is blind in order to make sure they're comfortable with the situation and explain to them what they can and can't do if they're asked for help; something that's not going to affect their productivity.

The employer can blow things up with a photocopier or use an overhead projector to enlarge things.

The employer can set up a buddy system for emergency evacuation (e.g., fire, or tornado, or drills).

Some Recommended Tools to Use:

A question and answer publication prepared by the Department of Justice with information about the basic rights of a person with a disability in the work place, and guide dog laws;

DBTAC information materials;

Disability training for employers;

Disability training delivered by a person with a disability;

Organizations specializing in disability services;

A State Institute (school or agency) for the Blind.

Worst Practices

Not knowing what is needed.

Asking people for help who do not want to help.

Asking vendors for help; they can give good information but they want to sell their product so you cannot rely on their recommendations.

Appendix D

Interview Guide

1) Please tell me about your experience requesting (or providing or teaching about) accommodations related to employment. What was (a) the first, latest, best, worst, typical, or most unusual request situation; (b) the type of accommodation(s) requested; (c) the type of entity asked and/or the situation; (d) the year(s) of occurrence; (e) the appeal or negotiation undertaken; (f) the result of the requests and/or appeals, and (g) what people were involved in it all?

2) What was the most helpful and the most unhelpful part of asking for (or providing, or teaching about) an accommodation? (a) what makes asking for (or providing, or teaching about) accommodation easier or harder for you? (b) will you request (or provide, or teach about) accommodation again, in the same situation, or in other situations? Why or why not?

3) What is your opinion of the process? (a) do you always ask for (provide or teach about) an accommodation needed? Why or why not? (b) do you ever not ask for (provide or teach about) needed accommodation? Why or why not? (c) what is/are the most important thing(s) to know or do in regard to requesting accommodation?

4) How do you think the accommodation request process affects your employment status (or the status of the people you hire, or advise)?

5) What do you think could improve the process?

6) After the data are reviewed and analyzed, you will be asked to comment on the results of these interviews. There may be additional questions to ask to help clarify something. May I contact you for this?

The demographic information gathered includes asking for the person's: (a) age, (b) race/ethnicity, (c) gender, (d) education level, (e) employment status, (f) income level, (g) rural or urban residence, (h) region, (i) the type and severity of the impairment; (j) the age of onset of impairment; and (k) age of first needing, using, and of first requesting an accommodation.

Member Check

(Read or e-mailed)

Dear —:

Attached is (or I will read you) a copy of the summary of the interview on the ADA accommodation process. The indented material are quotes, but have been put together from pieces of the entire conversation and edited for clarity and flow of ideas. Please let me know you received it and can access it. I can include it in the text of an e-mail if you have problems with an attachment.

- 1) Does this summary include everything of importance from the interview?
- 2) Is there something that should be emphasized or de-emphasized?
- 3) Is there some better way to express an idea?
- 4) Is there something additional, or new you want to include?
- 5) Is there something you feel should be removed?

It is important that I not mis-represent someone, so please let me know what you think. If you would like to talk about this, e-mail me, with a phone number and time to call, and I will give you a call. Otherwise an e-mail response from you, short or long, is fine with me.

Thank you
John Jay Frank