

# Report on Discrimination Against Workers with Disabilities in State Government

## Background

*Americans with Disabilities Act* - The ADA is a federal civil rights law that was passed in 1990 and went into effect beginning in 1992. Its purpose is to protect people with disabilities from discrimination in employment, in the programs and activities offered by state and local governments, and in accessing the goods and services offered in places like stores, hotels, restaurants, football stadiums, doctors' offices, beauty parlors, and so on.

CWA 7076, our union, receives daily reports of abuse and discrimination flooding our stewards with requests for aid. CWA 7076 represents thousands of state employees at 13 agencies under the executive branch. We are committed to the protection of the civil liberties of our workers.

## Disability Justice

Our union initiated its Disability Justice Committee one year ago on September 17, 2024. The group has evaluated the problem by:

- Consulting with civil rights experts at Disability Rights New Mexico
- Completing training provided by the Southwest ADA Law Center
- Conducting interviews and focus groups with State workers
- Conducting a survey about experiences of workers with disabilities in New Mexico

## Findings

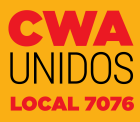
The committee has determined that the following unfair practices were common:

- Extreme delays in the processing of ADA requests
  - *"I submitted my ADA request in October 2022 and did not hear back from HR until August 2023."*
- Denial of reasonable accommodations without engaging in the interactive process
  - *"[ADA Coordinator] did not follow up on any of my ADA requests except to deny them."*
- Inappropriate, discriminatory, and unprofessional comments by HR representatives and supervisors
  - *"Supervisor said 'I know you have autism, but you should know better than this'"*
- Lack of safety procedures to protect workers and the public during emergencies
  - *"DOH leadership told me that the only workers at risk during a chemical exposure were those with health conditions like asthma when justifying their failure to protect workers"*
- Inaccessible facilities without operational automatic doors preventing workers with disabilities from accessing their worksite or restroom
- Workers advised to take unpaid time off via FMLA rather than provided with accommodations leading to needless interruptions in state operations.
- "Off the book" accommodations offered and later threatening to take away these accommodations as a means to coerce employees into taking unwanted actions

80% of surveyed employees with a disability considered quitting due to the difficulty receiving adequate accommodations.

## Communications Workers of America, AFL-CIO, CLC

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## **The State Fails to Act**

CWA 7076 met with State Personnel Office Director, Dylan Lange, repeatedly over the past year providing specific cases and detailed information about discriminatory practices against workers with disabilities. Director Lange stated that SPO could not direct agencies to correct their behavior and that employees and unions could pursue legal action against the State to correct the issue. Director Lange advised our union that the best remedy is for workers to begin the legal process to sue the state via EEOC complaints. Following an information request, we learned that the only two ADA trainings have been conducted for HR staff since 2020 and only about half of the State agencies we represent have participated in one of these training sessions. We also learned that some individuals have pursued litigation against the State resulting in costly settlements.

## **Call to Action**

- 1. Support legislation which protects the public and workers from abuses or discrimination in State facilities.**
  - In April, HB 120, "Accessibility of State Agencies", was vetoed by Governor Lujan Grisham who stated, "I wholeheartedly support the efforts to ensure that our state buildings and websites are accessible to everyone, regardless of disability. This is why my Administration is already complying with the applicable ADA standards" - We respectfully disagree.
  - Support legislation that ensures State buildings are accessible for everyone, including the employees of those facilities, and that protections are put in place so that legitimate complaints can be addressed without the burden of costly litigation.
- 2. Demand action from the New Mexico State Personnel Office and Executive Branch Agencies to prioritize the civil rights of their workers, including those with disabilities. Ask them to ensure:**
  - HR professionals receive the necessary training and are held to the standards of that training through clear policies and guidance
  - Complete an audit of ADA policies, practices, and procedures through an external party
  - Update or implement ADA Policies to include the following:
    - Any denial of an ADA accommodation will be accompanied by an email to the employee outlining reasons for denial
    - Within 20 business days of an accommodation request an employee shall receive: an accommodation through the interactive process, a temporary accommodation, denial with reasons documented, or temporary paid leave until the interactive process is completed.
    - An appeals process for any employee denied an accommodation

## **Conclusion**

About 17,000 employees work in the classified service under the State Personnel Office. Workers with disabilities want to work and serve New Mexicans - they sometimes need help removing barriers related to their disabilities to be successful. Our state deserves the best workers regardless of their disability status.

## **Contact Us**

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