



**P.O. Box 2185
Montgomery Village, MD. 20886
June 7, 2015**

President Barack H. Obama
1600 Pennsylvania Avenue
Washington, D.C.

Dear President Obama:

We write to you today in order to express our serious concerns that GSA policies pushing federal agencies to adopt open office configurations is coming into direct conflict with the responsibility of the federal government to provide reasonable accommodations to employees with disabilities under Section 501, and with the commitment you made in Executive Order 13548 to adopt policies and procedures that facilitate the recruitment, retention, advancement, and equality of people with disabilities within the Federal Government.

We applaud your statement in Executive Order 13548 that, "As the Nation's largest employer, the Federal Government must become a model for the employment of individuals with disabilities. Executive departments and agencies (agencies) must improve their efforts to employ workers with disabilities through increased recruitment, hiring, and retention of these individuals." We also recognize that under your leadership the federal government has hired many thousands of new employees with disabilities and broken a decades-long decline in their representation in the ranks of federal employees.

However, we have been contacted by employees with disabilities at the Administration for Community Living, at the US Department Health and Human Services, who have expressed grave concerns with the GSA open office policy and how its implementation in the agency's move to the Mary Switzer Building will impact their capacity to perform their jobs to the best of their ability. Employees of this agency, which has, by far the highest percentage of employees with disabilities of any operating division within HHS have been advised that virtually all employees below GS-15 rank will be assigned to small cubicles, with low (or no) walls on two floors of the Switzer Building. These cubicles which will be clustered together, will lack privacy, sound proofing, and adequate storage space. These ACL employees have heard disconcerting reports of the experience of other HHS employees with disabilities who recently moved into the Parklawn Building and answers concerning what accommodations will be made available and the process for securing them have not been forthcoming.

ACL has a diverse population of employees with disabilities who anticipate working in close quarters under the existing plans for the Switzer move. Some of these employees are deaf or hard of hearing and will require interpreters to have conversations, a hard thing to do in such confined quarters. Others, who are blind or are required to use voice dictation technology will need to deal with annoyed coworkers frustrated by the noise and distractions these accommodations will make, simply for trying to do their jobs to the best of their ability. And still others have sensory processing concerns where they need quiet settings in which they can concentrate as a reasonable accommodation, physical conditions where they need to stretch or do exercises in the middle of their work days, compromised immune systems where private offices are preferable – or need more space in case they need to bring a scooter, a wheelchair, a service animal or adaptive equipment into the office.

To further complicate the move to an “open space” layout, employees with non-visible disabilities who’ve required minimal accommodations in private offices in the past are now reporting the need to formally request extensive accommodations. This is problematic as once again there has been a lack of details concerning what documentation is needed, how documentation will be reviewed, or what process will be undertaken to ensure that they have a work environment in which they can perform the essential functions of their job effectively.

When questions have been raised about how employees are supposed to be appropriately accommodated in this kind of environment, suggestions have been made that maybe a roof can be added to the cubicles to better soundproof them, for the employees to wear noise cancelling headphones, use phone headsets, reserve conferencing rooms and/or perhaps telework. These solutions are clearly suboptimal and in some cases require disruption of individuals’ work flow or reasonable accommodations. In other cases one person’s reasonable accommodations will be disruptive to their colleagues. These types of solutions create new barriers to successful employment for people with disabilities and place a greater burden on individuals with disabilities to obtain acceptance in the workplace.

Some of these solutions are unrealistic. Many of these jobs require an in-office presence, rendering telework unrealistic, and in other cases the work environment may compel individuals with disabilities to relocate when they need to have private conversations or participate in briefings on sensitive topics, or render it more difficult to do close reading of documents under time sensitive circumstances. In many cases these changes in workflow disproportionately impacts the ability of workers with disabilities to carry out their job responsibilities. And many of those that could telework may simply not wish to and telling people with disabilities that if the only place that they can have a distraction free environment is at home that they should work there, is tantamount to forcing them to be segregated from their coworkers simply because they have a disability.

We respectfully request that you task the EEOC with looking into this matter and assessing whether the Switzer move is being implemented in a manner consistent with the recruitment, retention, reasonable accommodation and advancement of employees with disabilities under Section 501 and Executive Order 13548. Additionally, we ask the following:

- 1) How is the US government honoring its aspiration to be a model employer for employees with disabilities when it adopts office -space management policies that have the potential to conflict with many of the reasonable accommodations approaches for individuals with disabilities with a demonstrated record of success?
- 2) How is imposing GSA's open office policy on existing employees being conducted in a manner consistent with the interactive process for negotiating reasonable accommodations for employees with disabilities under Section 501 of the Rehabilitation Act?
- 3) Were employees with disabilities and those responsible for accommodating employees with disabilities consulted in the development of GSA's open office policy?
 - a. If so, please describe the scope, nature and extent of such consultation;
 - b. If not, please explain the rationale for not consulting with employees with disabilities and those charged with providing reasonable accommodations to them
- 4) Were the EEOC and OPM consulted in the development of GSA's open office policy to ensure consistency with Section 501 and Executive Order 13548? If not, why not?
- 5) Has GSA's open office policy been reviewed by government legal experts for its consistency with Section 501 of the Rehabilitation Act and Executive Order 13548?
 - a. If so, we would like to receive a written description of the legal rationale for this determination and how it was arrived at;
 - b. If not, we would request that the EEOC be tasked with or co-assigned responsibility for such a review.
- 6) What safeguards and monitoring are the federal government implementing to ensure that people with disabilities are not disproportionately impacted by this policy?

While we know that this administration is currently tackling numerous important issues we also know that HHS employees with disabilities are not the only employees with disabilities suffering the disparate impact from GSAs effort. We have heard from others with disabilities from other agencies facing the same barriers and have anecdotal evidence that this will continue to present itself as a problem wherever the "open space" initiative is undertaken.

We trust that you will take this inquiry seriously, and thoroughly investigate whether and how this open office configuration is being conducted in a manner consistent with Executive Order 13548, the goal of making the federal government a model employer of people with disabilities and Section 501. FEDES strongly encourages you to conduct a legal review (and assign the EEOC to a leadership role in such a review) if one has not been undertaken and to move expeditiously to adopt policies, procedures and best practices consistent with ensuring that this open office configuration does not undermine the strides this administration has made on the federal employment of people with disabilities. Finally we respectfully request that you report back to us in a timely manner on what measures are being taken to guarantee the smooth transition of employees with disabilities at ACL to their new work environment and what protections are being instituted to ensure that we don't drive some of the most talented employees with disabilities out of federal service or place barriers in the way of their subsequent career development and advancement.

In the same vein we will be contacting you in the near future concerning the numerous barriers we have faced in our efforts to create a productive and effective relationship with OPM over the past few years.

Thank you for your consideration and for your public service.

Sincerely,

A handwritten signature in cursive script that reads "Jason W. Olsen". The signature is written in black ink on a white background.

Jason W. Olsen
President
Federal Employees with Disabilities
(813) 390-5818
FedsFirst@gmail.com

CC: Valerie Jarrett; HHS Assistant Secretary for Administration, Ned Holland; Acting GSA Administrator, Denise Turner Roth; OPM Director, Katherine Archuleta; OPM, Veronica Villalobos; EEOC Chair, Jenny Yang; EEOC Commissioner, Chai Feldblum; White House Liaison to the Disability community, Office of Public Engagement, Maria Town; Deaf in Government President, Steve Gagnon; NAD CEO Howar Rosenblum; AFGE, Frank Silverstein; National Council on Disability Executive Director, Rebecca Cokley; NCD Chairman, Jeff Rosen; FEW President, Michelle Crockett; FEDQ President, Matthew Murphy; SAIGE President, Fredericka Joseph; FAPAC President, Grace Spence; BIG President, Darlene Young.