



COVID-19 POLICY COLLABORATIVE

Frameworks for a Disability-Inclusive Recovery

SEED | STATE EXCHANGE ON EMPLOYMENT & DISABILITY

The State Exchange on Employment & Disability (SEED), an initiative funded by the U.S. Department of Labor's Office of Disability Employment Policy (ODEP), assists states in developing effective and inclusive workforce policies that promote disability employment. Recognizing that every state is unique, SEED offers policy options and resources states can tailor to meet their needs and goals. To this end, SEED partners with leading intermediary organizations that serve as trusted sources of information to state and local policymakers.



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Overview

Across the United States, state and local policymakers are adopting policies, plans and other initiatives in response to the COVID-19 pandemic. Given the significant impact of COVID-19 on employment in general, and the employment of disabilities in particular, the State Exchange on Employment & Disability (SEED) convened the COVID-19 Policy Collaborative for an Inclusive Recovery. The Collaborative aimed to support state and local intermediary partners and other stakeholders as they respond to the pandemic to ensure newly implemented policies align with federal, state and local disability and civil rights laws and policies.

The Collaborative identified four broad topics for consideration:



[Return to the Workplace: Inclusive Safety and Health Policies and Plans](#)



[Workforce Retention: Inclusive COVID-19 Vaccination Policies](#)



[Workforce Retention: Inclusive COVID-19 Mental Health Policies](#)



[Preparing for Work: Inclusive Workforce Readiness Policies](#)



The following guide highlights important issues for each of the above topics as identified by the SEED COVID-19 Policy Collaborative to ensure a disability-inclusive recovery and provides a series of coinciding policy frameworks to assist state and local policymakers in their efforts to adopt disability-inclusive COVID-19 recovery initiatives.



RETURN TO THE WORKPLACE:

INCLUSIVE SAFETY AND HEALTH POLICIES AND PLANS

As workers return to the workplace during and after the COVID-19 pandemic, state and local policymakers may want to consider adopting workplace policies to protect the health and safety of all employees, including employees with disabilities, in a manner that facilitates equal employment opportunity for qualified individuals consistent with our nation's civil rights statutes. Policymakers may also want to make their telework policies more disability inclusive.

The SEED COVID-19 Policy Collaborative for an Inclusive Recovery reviewed extensive background on these matters and identified a number of ways for state and local policymakers to adopt disability-inclusive COVID-19 safety and health workplace policies and plans.

DISABILITY-INCLUSIVE SAFETY AND HEALTH POLICIES, INCLUDING TELEWORK POLICIES

Federal Policy and Guidance

On January 21, 2021, the White House issued a "[National Strategy for the COVID-19 Response and Pandemic Preparedness](#)." The National Strategy highlights seven goals, including safely reopening businesses and protecting those most at risk and advancing equity. In furtherance of the national strategy, the White House has issued, among others, the following executive orders:

- [Executive Order on Economic Relief Related to the COVID-19 Pandemic](#) (January 22, 2021)
- [Executive Order 13995 Ensuring an Equitable Pandemic Response and Recovery](#) (January 21, 2021)
- [Executive Order 13999 Protecting Worker Health and Safety](#) (January 21, 2021)
- [Executive Order 13991 Protecting the Federal Workforce and Requiring Mask-Wearing](#) (January 20, 2021)

The Centers for Disease Control and Prevention (CDC), the U.S. Department of Labor's (USDOL) Occupational Safety and Health Administration (OSHA) and the Equal Employment Opportunity Commission (EEOC) have issued sub-regulatory guidance recognizing employers' responsibilities to ensure the safety and health of all employees, including those with disabilities.

- CDC provides guidance *to businesses and workplaces* to address frequently asked questions, as well as planning documents, web resources, factsheets and other resources. CDC has issued specific guidance for employers, recognizing that as

workplaces consider scaling up activities toward pre-COVID-19 operating practices, it is particularly important to keep in mind that some workers are at higher risk of severe illness from COVID-19. Links to CDC guidance are provided in the [Resources](#) section.

→ OSHA offers resources to help employers and workers prepare for and respond to COVID-19 in the workplace, including infection prevention information specifically for employers and workers. Links to OSHA guidance are provided in the [Resources](#) section.

- On January 29, 2021 (updated on June 10, 2021), OSHA posted guidance for employers titled, "[Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace](#)." The guidance is intended to help employers and workers not covered by OSHA's COVID-19 Emergency Temporary Standard (ETS) to identify COVID-19 exposure risks to workers who are unvaccinated or otherwise at-risk, and to help them take appropriate steps to prevent exposure and infection. This guidance contains recommendations, as well as descriptions of mandatory safety and health standards, the latter of which are clearly labeled throughout as "mandatory OSHA standards."
- The guidance recognizes that vaccines authorized by the FDA are highly effective at protecting most fully vaccinated people against symptomatic and severe COVID-19, and encourages employers to take steps to make it easier for workers to get vaccinated. The guidance recognizes that unless otherwise required by federal, state, local, tribal or territorial laws, rules and regulations, most employers no longer need to take steps to protect their workers from COVID-19 exposure in any workplace, or well-defined portions of a workplace where all employees are fully vaccinated.
- However, for workers who are unvaccinated or who are otherwise at-risk, OSHA recommends implementing multiple layers of controls.
- The guidance includes several statements of particular relevance to workers with disabilities, including:
 - ***A recognition that under the Americans with Disabilities Act (ADA), workers with disabilities may be legally entitled to reasonable accommodations that protect them from the risk of contracting COVID-19*** if, for example, they cannot be protected through vaccination, cannot get vaccinated or cannot use face coverings. Employers should consider taking steps to protect these at-risk workers as they would unvaccinated workers, regardless of their vaccination status.
 - ***Employers should limit the number of unvaccinated or otherwise at-risk workers in one place at any given time***, for example, by implementing flexible worksites (e.g., telework); implementing flexible work hours (e.g., rotate or stagger shifts to limit the number of such workers in the workplace at the same

time; delivering services remotely (e.g., phone, video or web); or implementing flexible meeting and travel options for all such workers.

- **Employers should provide face coverings to unvaccinated and otherwise at-risk workers at no cost.** Under the ADA, employers may need to provide reasonable accommodations for any worker who is unable to wear or has difficulty wearing certain types of face coverings due to a disability or who needs a religious accommodation under Title VII of the Civil Rights Act. In workplaces with employees who are deaf or hard of hearing, employers should consider acquiring masks with clear coverings over the mouth for unvaccinated and otherwise at-risk workers to facilitate lip-reading.
- There are times where personal protective equipment (PPE) is not called for by OSHA standards or other industry-specific guidance, but **some workers may have a legal right to PPE as a reasonable accommodation under the ADA.** Employers are encouraged to proactively inform employees who have a legal right to PPE as a reasonable accommodation for their disability about how to make a request.
- **Employers should educate and train workers on a company's COVID-19 policies and procedures using accessible formats and in language they understand.** Communication should be in plain language that unvaccinated and otherwise at-risk workers understand, including American Sign Language or other accessible communication methods, if applicable.

→ EEOC focuses its COVID-19 policy guidance on the applicability of [Title I of the Americans with Disabilities Act](#), which prohibits discrimination on the basis of disability by covered employers. EEOC's guidance titled, "[What You Should Know About COVID-19 and the ADA, the Rehabilitation Act and Other EEO Laws](#)," (updated May 28, 2021) addresses COVID-19 and disability-related topics such as:

- Disability-related inquiries and medical exams;
- Confidentiality of medical information;
- Hiring and onboarding;
- Reasonable accommodation;
- Return to the workplace; and
- Vaccinations.

Links to EEOC guidance are provided in the [Resources](#) section.

It should be noted that the EEOC guidance makes it clear that the provisions of Title I of the ADA do **not** interfere with employers following advice from CDC, OSHA and other public health authorities on appropriate steps to take relating to the safety and health of the workforce. In other words, testing administered by employers consistent with current CDC guidance will meet the ADA's "business necessity" standard.

State Policy and Guidance

Several states have adopted policies that ensure the health and safety of all workers, including workers with disabilities, and are aligned with our federal, state and local civil rights laws guaranteeing equal employment opportunity for qualified individuals with disabilities.

On April 27, 2020, **Massachusetts** Attorney General Maura Healey issued guidance, [Rights of Disabled Persons to Accommodations During COVID-19 Crisis](#).

- Individuals with underlying conditions who believe they need additional protections can seek *reasonable accommodations*, including *telework*.
- If a particular job is not conducive to telework, the employee can request other accommodations to reduce the risk of infection, such as a change in job responsibilities—for example, a shift to a new position or a modification of duties to provide for more limited interpersonal interaction.

On May 13, 2020, Governor Tim Walz of **Minnesota** issued [MN: EO 20-54: Protecting Workers from Unsafe Working Conditions and Retaliation During the COVID-19 Peacetime Emergency](#).

- Employers have an obligation to provide *reasonable accommodations* to qualified employees with disabilities, which may include employees with health conditions who are at high-risk, as determined by CDC guidelines. Reasonable accommodations may include adjusting schedules or workstations, allowing employees to work from home or permitting use of leave.
- Employers must *not discriminate or retaliate* in any way against any worker for wearing gloves, a cloth face covering, eye protection or other *protective gear* that the individual has personally procured and reasonably believes will protect them, their co-workers or the public against COVID-19, *provided that* the protective gear does not violate industry standards or existing employer policies.
- Employers may require use of employer-provided protective gear that meets or exceeds protective gear procured by employees.
- Workers have the *right to refuse to work* under conditions that they, in good faith, reasonably believe present an *imminent danger of death or serious physical harm*.

On March 20, 2020, **New Jersey** [A3848](#) was approved. The legislation prohibits termination or retaliation against employees who become infected and prohibits refusal to reinstate these employees.

- An employer shall not, during the Public Health Emergency and State of Emergency concerning the coronavirus disease 2019 pandemic (as declared by the Governor in Executive Order 103 of 2020), *terminate or otherwise penalize* an employee if the employee requests or takes time off from work based on the written or electronically transmitted recommendation of a medical professional licensed in New Jersey that the employee take that time off for a specified period of time because the employee has, or is likely to have, an infectious disease, which may infect others at the employee's workplace.
- The employer shall not, following that specified period of time, *refuse to reinstate* the employee to employment in the position held when the leave commenced with no reduction in seniority, status, employment benefits, pay or other terms and conditions of employment.

On October 28, 2020, **New Jersey** Governor Phil Murphy issued [NJ: EO 192: Protect New Jersey's Workforce During the COVID-19 Pandemic](#), requiring employers that require or permit its workforce to be physically present at the worksite to comply with specified requirements.

- Employers may deny entry to the worksite to any employee who declines to wear a face mask, except when doing so would violate state or federal law.
- Where an employee *cannot wear a face mask because of a disability*, an employer may, consistent with the ADA, be required to provide the employee with a reasonable accommodation, unless doing so would be an undue hardship on the employer's operations.
- Employers must conduct daily *health checks* of employees consistent with CDC guidance and consistent with the *confidentiality* requirements of the ADA.
- Employers must *notify all employees of any known exposure* to COVID-19 at the worksite, consistent with the *confidentiality* requirements of the ADA.

On April 13, 2020, Governor Jay Inslee of **Washington** issued [WA: EO 20-46: High-Risk Employees – Workers' Rights](#).

- Employers must provide *accommodations* to high-risk workers—as defined by the CDC to be those over 65 years of age, and people of any age who have certain chronic underlying health conditions—that protect them from risk of exposure to the COVID-19 disease on the job.

- Employers must utilize all *available options* for alternative work assignments to protect high-risk employees, if requested, from exposure to the COVID-19 disease, including telework, alternative or remote work locations, reassignment and social distancing measures.
- If an employer determines that alternative work arrangements are not feasible, the employer must permit an employee to utilize all available accrued leave or unemployment insurance options, in any sequence at the discretion of the employee, free from risk of adverse employment action.

Additional state policies (gleaned from official state and state agency websites) include:

- **Connecticut's** official website, [Safe Workplace Rules for Essential Workers](#), includes information on confidentiality and the ADA.
- [Idaho Division of Human Resources: Guide for State of Idaho Workforce: Return to Work and Stay Healthy](#) includes reference to the ADA and confidentiality, accommodations and telework.
- [Wisconsin Department of Health Services: Preventing and Managing COVID-19 Outbreaks in the Workplace](#) includes reference to ADA and EEOC guidance related to confidentiality and antibody tests.

DISABILITY-INCLUSIVE POLICY OPTIONS FOR STATE AND LOCAL POLICYMAKERS

Safety and Health

Based on a review of existing federal and state policies, state and local policymakers may want to consider the following policy options for expanding and improving COVID-19 safety and health policies to make them more inclusive of people with disabilities:

- 1 | In addition to state orders and guidance that includes references to CDC and OSHA guidance, state policymakers may want to include references to EEOC guidance pertaining to disability-related inquiries and medical exams, confidentiality of medical information, hiring and onboarding, reasonable accommodations and return-to-work practices.
- 2 | Issue an executive order regarding worker protections, including the obligations of employers not to discriminate (including the failure to provide reasonable accommodations and the failure to reinstate) or retaliate against workers on the basis of disability, with a particular focus on the rights of persons with pre-existing conditions that make them at higher risk from COVID-19.

- 3 | Issue separate guidance related to best, promising and emerging policies and practices for making the workplace safe, while at the same time ensuring equal employment opportunity for persons with disabilities during the COVID-19 pandemic, including persons with pre-existing conditions that make them at higher risk from COVID-19.

Telework

In addition, state and local policymakers may want to consider the following options for adopting disability-inclusive telework policies.

In General

To create disability-inclusive telework programs, state policymakers and agencies may want to consider three main principles:

- *Clarity* in expectations and procedures;
- *Flexibility* in accommodating individual situations, where needed; and
- *Universal design* in the creation of policies and the selection of telework tools that take into consideration the functional needs and abilities of the greatest numbers of people.

Telework Policies

To be inclusive, policymakers may want to consider the following policy options:

- 1 | Explicitly indicating how policies apply to individuals with disabilities—for example, whether the policy is meant to be inclusive of such individuals as written or needs to be modified—so that employees and managers better understand and engage with telework policies.
- 2 | Providing guidelines and requiring clear documentation to ensure telework requests are handled transparently and reduce discrimination in telework denials and approvals.
- 3 | Allowing employees flexibility in acquiring and utilizing technology to provide the proper equipment and better meet the needs of employees.

Telework Agreements

To be inclusive, agencies may want to consider the following policy options:

- 1 | Allowing employers and employees to customize particular aspects of telework agreements, such as telework schedule, telework location, telework duration, communication methods and means of securing and transporting equipment, to better account for an individual's unique situation.
- 2 | Indicating protocols to allow employees with disabilities to telework during emergency situations to mitigate additional challenges brought on by the extenuating circumstances (such as traveling to the office during a storm).

Management of Telework Programs

To be inclusive, agencies may want to consider the following policy options:

- 1 | Training managers around facilitating effective telework policies and best practices, especially related to supporting people with different needs.
- 2 | Designating someone—such as the ADA Coordinator—to coordinate and manage telework accessibility issues.
- 3 | Coordinating with the state’s assistive technology resources—created under [Section 4](#) of the federal Assistive Technology (AT) Act—to provide devices for individuals with disabilities.
- 4 | Training technology support personnel on selecting and supporting accessible technology by considering universal design and Web Content Accessibility Guidelines ([WCAG 2.0](#)) or higher standards in selecting technology platforms; and to troubleshoot the assistive technology devices used by employees.

DISABILITY-INCLUSIVE COVID-19 SAFETY AND HEALTH WORKPLACE PLANS

This subsection describes a framework that state and local agencies may want to use for drafting disability-inclusive COVID-19 health and safety plans for reopening their workplaces. As explained in the introduction, a disability-inclusive plan aligns with our nation’s disability and civil rights laws and regulations, including the ADA.

Components of a Disability-Inclusive COVID-19 Safety and Health Workplace Plan

A typical COVID-19 health and safety plan addresses:

- Management strategies (e.g., preparing a response plan, assigning a coordinator, training managers, establishing a communication system and keeping records); and
- Strategies to prevent or reduce the transmission of the virus (e.g., screening, testing, contact tracing, quarantining, isolating, physical distancing, vaccinating, installing barriers, using face coverings, using personal protective equipment, cleaning and disinfecting, and adopting return-to-the-workplace criteria).

A disability-inclusive COVID-19 health and safety plan also addresses protections that are aligned with the ADA and comparable state and local civil rights policies described in the first section of this framework. Topics addressed include:

- Protecting against discrimination on the basis of disability, including ensuring that employees are provided reasonable accommodation;

- Protecting workers at higher risk for severe illness due to pre-existing health-related conditions;
- Ensuring confidentiality of information; and
- Protecting against retaliation.

Protecting Against Discrimination on the Basis of Disability. In order to protect against discrimination on the basis of disability in a COVID-19 health and safety plan, state and local agencies as well as private sector employers may want to consider including in their plans:

- Reference to the ADA, including the reasonable accommodation provision;
- Reference to the [EEOC guidance](#) and [OSHA guidance](#) applying the ADA to COVID-19 safety and health; and
- Recognition that the ADA provisions are construed to be consistent with guidance provided by [CDC](#), [OSHA](#) and state and local public health officials.

As state and local agencies develop plans and templates for private sector employers, they may want to consider including specific examples of how the ADA (and the reasonable accommodation provision) applies to particular situations, for example:

- *The reasonable accommodation interactive process may be different during the pandemic.* Consistent with [EEOC guidance](#), explain how the interactive process (discussion between an employer and employee to determine an effective accommodation that enables the employee to perform the essential functions of the job) may be modified during the pandemic. Examples of modifications include shortening the interactive process or providing a requested accommodation on an interim or trial basis, with an end date, while awaiting receipt of medical documentation.
- *Reasonable accommodations as a strategy to reduce or eliminate direct threats to health and safety.* Consistent with [EEOC guidance](#), explain how the provision of reasonable accommodations (absent undue hardship) for employees who are unvaccinated due to a disability may reduce or eliminate a direct threat to the health and safety of those employees or others.
- *Telework as an accommodation.* Recognize that telework may be required as a reasonable accommodation (absent undue hardship) for a particular employee, even if the state or local agency has a general telework policy providing managers with sole discretion to determine who is offered the opportunity to telework.
- *Use of personal protective equipment (PPE) as a reasonable accommodation when necessary.* Consistent with [OSHA guidance](#), recognize that there are times when PPE

is not required under OSHA standards or other industry-specific guidance, but some workers may have a legal right to PPE as a reasonable accommodation under the ADA.

- *Suppressing the spread of COVID-19 using face coverings.* Consistent with [EEOC guidance](#) and [OSHA guidance](#), discuss the possibility of reasonable accommodations under the ADA (absent undue hardship) for any workers who are unable to wear or have difficulty wearing certain types of face coverings due to a disability. In workplaces with employees who are deaf or have hearing impairments, consider acquiring masks with clear coverings over the mouth for all workers to facilitate lip-reading.
- *Educating and training workers on COVID-19 policies and procedures.* Consistent with [OSHA guidance](#) and [EEOC guidance](#), explain that when providing training to employees regarding COVID-19 related policies and procedures (as well as other vital workplace information), effective and meaningful communication includes using accessible formats and American Sign Language or other accessible communication methods, if applicable, in a manner that makes the information accessible to individuals with disabilities.

Protecting Workers at Higher Risk for Severe Illness. In order to protect workers at higher risk for severe illness in a COVID-19 health and safety plan, state and local agencies (regarding their plans and templates for private sector employers) may want to consider:

- Including references to [CDC guidance](#) and [OSHA guidance](#) for protecting workers at higher risk for severe illness; and
- Encouraging workers who have identified as high-risk to consult with supervisors or human resources personnel about reasonable accommodations (absent undue hardship), such as working at home (part or full-time) or using additional personal protective equipment.

Ensuring Confidentiality of Information. In order to ensure confidentiality of information in a COVID-19 health and safety plan, state and local agencies may want to consider the following in plans and templates specifically developed for private sector employers:

- Including reference to the [EEOC guidance](#) requiring companies to maintain COVID-19 related illness of an employee as a confidential medical record.
- Explaining that the ADA requires an employer to keep all medical information about employees confidential, even if that information is not about a disability, including information that an employee has symptoms of, or a diagnosis of, COVID-19. However, this confidentiality rule does not prevent the manager from reporting to appropriate officials so that they can take actions consistent with guidance from CDC and other public health authorities.



Protecting Against Retaliation. In order to make a COVID-19 health and safety plan disability-inclusive by protecting against retaliation, state and local agencies may want to consider including reference to and explaining the prohibition against taking retaliatory action for exercising rights under the ADA in their plans and templates for private sector employers.

Examples of Federal and State Disability-Inclusive COVID-19 Safety and Health Workplace Plans

Federal and state agencies are developing COVID-19 safety and health workplace plans that align with the ADA and state and local civil rights legislation. Below are examples.

Federal Agencies

The following are links to federal disability-inclusive COVID-19 workforce health and safety plans:



[Department of Justice](#) includes information on the ADA and reasonable accommodations, as well as reference to EEOC guidance and vulnerable populations.



[Social Security Administration](#) includes information on confidentiality, EEOC guidance, reasonable accommodations and face masks.



[Department of Labor](#) includes information on confidentiality, the ADA and reasonable accommodations and effective communication.



[Department of the Treasury](#) includes information on the ADA and reasonable accommodations, EEOC guidance and face masks.



[Department of Agriculture](#) includes information on confidentiality, reasonable accommodations and EEOC guidance.

State Agencies

The following are some examples of state disability-inclusive COVID-19 workforce health and safety plans:

- [Iowa Department of Human Rights](#) includes reference to EEOC Guidance and the ADA, as well as reasonable accommodations around telework and for employees at higher risk of COVID-19.
- **Minnesota**
 - [Department of Human Rights—COVID-19 and Civil Rights](#) includes references to the ADA and EEOC guidance related to discrimination, reasonable accommodations and high risk employees.
 - [Employment and Economic Development—Frequently Asked Questions for Employers and Employees](#) includes guidance on those who may be at higher risk if they contract COVID-19, the ADA and reasonable accommodations (including telework) and testing for COVID-19 and other medical tests under the ADA.

COVID-19 RESOURCES: SAFETY AND HEALTH IN THE WORKPLACE, INCLUDING TELEWORK

Federal Policy Guidance

White House

- [Executive Order 13999 Protecting Worker Health and Safety](#) (January 21, 2021)
- [Executive Order 13991 Protecting the Federal Workforce and Requiring Mask-wearing](#) (January 20, 2021)

Centers for Disease Control and Prevention (CDC)

- [General Business Frequently Asked Questions](#) (updated May 24, 2021)
- [Unvaccinated People Returning to Work](#) (May 5, 2021)
- [Updated Healthcare Infection Prevention and Control Recommendations in Response to COVID-19 Vaccination](#) (April 27, 2021)
- [Resources for Businesses and Workplaces](#) (updated April 22, 2021)
- [Guidance for Wearing Masks](#) (April 19, 2021)
- [Toolkit for Businesses and Workplaces](#) (updated January 14, 2021)

- [Guidance for Businesses and Employers Responding to Coronavirus Disease 2019 \(COVID-19\)](#) (updated March 8, 2021)
- [Coronavirus Disease 2019 webpage](#) (updated May 28, 2021). This website lists all CDC guidance in chronological order.

U.S. Department of Labor (USDOL), Occupational Safety and Health Administration (OSHA)

- [Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace](#) (January 29, 2021, updated June 10, 2021)
- [Frequently asked questions about the coronavirus](#)
- [General guidance on controlling and preventing the coronavirus at work](#)
- [Guidance for employers on returning to work during the pandemic](#)
- [OSHA Guidance on Preparing Workplaces for COVID-19](#)
- [National Emphasis Program—Coronavirus 19 \(COVID-19\) Directive](#)
- [All Occupational Safety and Health Administration \(OSHA\) news, guidance and resources on the coronavirus](#)

U.S. Equal Employment Opportunity Commission (EEOC)

- [What You Should Know About COVID-19 and the ADA, the Rehabilitation Act and Other EEO Laws](#) (updated June 28, 2021)
- [Pandemic Preparedness in the Workplace and the Americans with Disabilities Act](#) (March 21, 2020)
- [Coronavirus and COVID-19 webpage](#)

Federally-Funded Resources

- [Policy Brief: COVID-19: Federal Disability-Specific and Other Related Guidance](#) (SEED)
- [COVID-19 Workplace Resources and Tools](#) (Employer Assistance and Resource Network on Disability Inclusion)
- [COVID-19 and Job Applicants and Employees with Disabilities: Emerging Practices to Employ and Protect Workers](#) (Employer Assistance and Resource Network on Disability Inclusion)
- [Coronavirus Disease 2019 \(COVID-19\)](#) (Job Accommodation Network)

Resources for State and Local Policymakers

Council of State Governments

- [COVID-19 Resources for State Leaders](#)
- [Disability Inclusive Telework for States—State Approaches for Increasing Access & Inclusion](#)
- [Disability Inclusive Telework for States: State Approaches for Increasing Access & Inclusion](#)

National Conference of State Legislatures

- [COVID-19 and Employment for People with Disabilities](#)
- [COVID-19 Resources for States](#)
- [Making Work Safe and Accessible During a Pandemic](#)
- [Disability Employment Statute and Legislation Scan](#)

National Governors Association

- [COVID-19 Needs and Resource Matching](#)
- [Governors' Role In Promoting Disability Employment In COVID-19 Recovery Strategies](#)



WORKFORCE RETENTION:

INCLUSIVE COVID-19 VACCINATION POLICIES

As individuals begin to return to the workplace and employers look to retain their workforces, the design and implementation of vaccination policies that are inclusive of people with disabilities is especially important. The COVID-19 Policy Collaborative for an Inclusive Recovery explored these issues extensively and identified a number of disability-inclusive policy options that state and local policymakers may want to consider.

SIGNIFICANCE OF VACCINATIONS IN FACILITATING RETURN TO THE WORKPLACE AND WORKER RETENTION

Vaccinations play a significant role in facilitating a return to the workplace and worker retention. According to the [Centers for Disease Control and Prevention](#) (CDC), some of the most significant benefits of COVID-19 vaccinations (based on what is currently known) include:

- COVID-19 vaccination will help keep an individual from getting COVID-19. Under the Emergency Use Authorization (EUA), COVID-19 vaccines currently available in the United States have been shown to be highly effective at preventing COVID-19.
- COVID-19 vaccination is a safe way to help build protection. Under the EUA, the known and potential benefits of a COVID-19 vaccine outweigh the known and potential risks of the vaccine.
- COVID-19 vaccination is an important tool to help stop the pandemic. The combination of getting vaccinated and following CDC's recommendations [to protect oneself and others](#) (e.g., social distancing, wearing masks and washing hands) will offer the best hope of getting the nation back to a semblance of "normal."

Federal Policy and Guidance

Federal agencies that have adopted policy guidance regarding vaccinations in general and vaccinations in the workplace include:

- The White House;
- Food and Drug Administration (FDA);
- Centers for Disease Control and Prevention (CDC);
- Equal Employment Opportunity Commission (EEOC);
- Occupational Safety and Health Administration (OSHA);
- Office for Civil Rights (OCR), Department of Health and Human Services (HHS);
- Administration for Community Living (ACL);

- Internal Revenue Service (IRS); and
- Federal Transportation Administration (FTA).

The White House

On April 21, 2021, President Biden released a [Fact Sheet](#) calling on employers to use their unique resources to make commitments to provide accurate information about how people can get vaccinated, why people should get vaccinated and incentivize all Americans to get vaccinated. President Biden also called on employers to offer full pay to their employees for any time off needed to get vaccinated and for any time it takes to recover from the after-effects of vaccination or recover from that vaccination.

Food and Drug Administration (FDA)

The Federal Food, Drug and Cosmetic Act (the Act) authorizes the Secretary of Health and Human Services (HHS) to declare that circumstances exist to justify the emergency use of drugs and biological products during a pandemic and issue [Emergency Use Authorization \(EUA\)](#). FDA has issued EUA [guidance](#) for vaccines to prevent COVID-19. In accordance with this guidance, FDA [has approved EUA](#) for three vaccines.

Consistent with the Act, the Secretary must establish appropriate conditions on the EUA designed to “ensure that recipients of the vaccine under an EUA are informed, to the extent practicable under the applicable circumstances, that FDA has authorized the emergency use of the vaccine, of the known and potential benefits and risks, the extent to which such benefits and risks are unknown, that they have the option to accept or refuse the vaccine and of any available alternatives to the product.”

The Act also requires that FDA ensure that vaccination providers participating in the vaccination program provide vaccine recipients with certain information about the vaccine they will receive, including an [EUA Fact Sheet for Recipients](#) about the vaccine. These fact sheets explain, among other things:

- The FDA has authorized the emergency use of the vaccine to prevent COVID-19 in individuals 12 years of age and older.
- The COVID-19 vaccine is an unapproved vaccine that may prevent COVID-19 and, currently, there is no FDA-approved vaccine to prevent COVID-19.
- An individual should not get the vaccine if they had a severe allergic reaction after a previous dose of the vaccine or had a severe allergic reaction to any ingredient of the vaccine.

- The benefits of the vaccine include preventing COVID-19 after specified doses; duration of protection is currently unknown.
- The risks of the vaccine including non-severe allergic reaction and severe allergic reaction (remote chance) and other side effects not listed are possible, including serious and unexpected side effects.
- It is a person's choice to receive or not receive the vaccine. Should an individual decide not to receive it, it will not change the individual's standard of medical care.
- The vaccine is still being studied in clinical trials.
- The FDA decision is based on the totality of the scientific evidence available showing that the product may be effective to prevent COVID-19 during the pandemic and that the known and potential benefits of the product outweigh the known and potential risks of the product.

Centers for Disease Control and Prevention (CDC)

CDC has issued guidance relating to vaccinations, including:

- [Key Things to Know about COVID-19 Vaccines](#) (May 23, 2021), including an overview of vaccine information, availability, cost, effectiveness, safety and more.
- [Interim Public Health Recommendations for Fully Vaccinated People](#) (May 28, 2021) describes the type of activities people who are fully vaccinated can do once fully vaccinated.
- [Guidance for Vaccinating Older Adults and People with Disabilities: Ensuring Equitable COVID-19 Vaccine Access](#) (May 14, 2021) summarizes what jurisdictions should consider when planning to vaccinate older adults and people with disabilities in the community. It also provides considerations to help jurisdictions ensure equal opportunities for vaccination of these populations.
- CDC webpage addressing [vaccinations](#). CDC offers a [tool](#) that provides information about when an individual might be eligible for the vaccine in a particular state and provides the demographic breakdowns for each phase.
- [Workplace Vaccination Programs](#) (updated March 16, 2021) states that making COVID-19 vaccination part of a company's wellness program offers many benefits to the company and its employees.

CDC guidance specifies that the legal question of whether an employer may require or mandate COVID-19 vaccination is a matter of state or other applicable laws.

- COVID-19 [Vaccination Program Operational Guidance](#) emphasizes the importance of disability access (i.e., vaccination location accessibility, communicating vaccine information and scheduling appointments).
- [Interim Considerations for Phased Implementation of COVID-19 Vaccination and Sub-Prioritization Among Recommended Populations](#) (updated March 2, 2021).
- [Interim Public Health Recommendations for Fully Vaccinated People](#) (March 8, 2021) describes the type of activities people who are fully vaccinated can do once fully vaccinated.
- [Interim Public Health Recommendations for Fully Vaccinated People](#) (April 23, 2021) includes recommendations describing the type of activities people who are fully vaccinated can do once fully vaccinated.

Additional information and guidance from CDC are available on its [Coronavirus Disease 2019 webpage](#). This website lists all CDC guidance in chronological order.

Equal Employment Opportunity Commission (EEOC)

EEOC has issued guidance concerning vaccinations in a document titled "[What You Should Know About COVID-19 and the ADA, the Rehabilitation Act and Other EEO Laws](#)" (updated June 28, 2021) [See Questions K1-K13].¹

CDC guidance specifies that the legal question of whether an employer may require or mandate COVID-19 vaccination is a matter of state or other applicable laws. Consistent with CDC's statement, EEOC guidance simply prescribes the legal framework under Title I of the ADA and Title VII of the Civil Rights Act by which an employer that wishes to consider mandating COVID-19 vaccinations must be prepared to evaluate, based on an individualized assessment, whether a specific individual qualifies for a medical/disability or religious exemption and is entitled to a reasonable accommodation.

More specifically, under the ADA, where an employer imposes a qualification standard (a standard an employee must meet in order to be qualified for employment), any such standard that screens out, or tends to screen out, individuals with disabilities must be job-related and consistent with business necessity. This rule applies to mandatory vaccination requirements. In other words, if an employer's mandatory vaccination requirement tends to screen out certain individuals who are not able to be vaccinated due to an underlying

¹ See Also "Pandemic Preparedness in the Workplace and the Americans with Disabilities Act," updated on March 21, 2020 in response to COVID-19 [Question 13].

medical condition, the employer must show that the vaccination requirement is job-related and consistent with business necessity.

Because the justification for the vaccination requirement is that it addresses a health or safety concern, in order to require that an employee with disabilities comply with such a requirement, the employer would need to demonstrate, based on an individualized assessment, that the failure of that employee to be vaccinated would pose a direct threat to the health or safety of the employee or other employees in the workplace. If an employer determines that a direct threat exists without the employee being vaccinated, then the employer must consider whether the direct threat can be eliminated or reduced by a reasonable accommodation—a change to the employee’s duties or other terms and conditions of employment that would allow the employee to perform the essential functions of the job without posing an undue hardship on the employer. Examples of reasonable accommodations could include an unvaccinated person wearing a face mask or other personal protective equipment, working at a social distance from coworkers or non-employees, working a modified shift, getting periodic tests for COVID-19, or being given the opportunity to telework or accepting reassignment.

In other words, the ADA and other federal equal employment opportunity (EEO) laws do not prevent an employer from requiring all employees physically entering the workplace to be vaccinated for COVID-19, so long as employers comply with the reasonable accommodation provisions of the ADA and Title VII of the Civil Rights Act of 1964 and other EEO considerations. Other laws, not in EEOC’s jurisdiction, may place additional restrictions on employers. From an EEO perspective, employers should keep in mind that because some individuals or demographic groups may face greater barriers to receiving a COVID-19 vaccination than others, some employees may be more likely to be negatively impacted by a vaccination requirement.

Federal EEO laws prevent employers from making disability-related inquiries (questions that would tend to elicit disclosure of information about an employee’s disability). Questions about why an employee is unvaccinated would likely constitute this type of prohibited inquiry; similarly, requiring employees to provide the answers to pre-vaccination medical screening questions that they answered before receiving a vaccine from a third party (such as a pharmacy, personal health care provider or public clinic) would be a disability-related inquiry, as answers to these questions tend to include disclosures about certain types of disability.

However, federal law does not prevent an employer from asking whether an employee is unvaccinated and requesting confirmation of vaccination from a third party; federal EEO laws also do not prevent or limit employers from offering incentives to employees to voluntarily provide documentation or other confirmation of vaccination obtained from a third party. If employers choose to obtain vaccination information from their employees, employers must keep vaccination information confidential pursuant to the ADA.

In addition, employers that are administering vaccines to their employees may offer incentives for employees to be vaccinated, as long as the incentives are not coercive. Because, as discussed above, vaccinations require employees to answer pre-vaccination disability-related screening questions, a very large incentive could make employees feel pressured to disclose protected medical information.

Further, employers may provide employees and their family members with information to educate them about COVID-19 vaccines and raise awareness about the benefits of vaccination. The technical assistance highlights federal government resources available to those seeking more information about how to get vaccinated.

Occupational Safety and Health Administration (OSHA)

Recent guidance issued by OSHA titled, "[Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace](#)" (January 29, 2021, updated June 10, 2021), recognizes that "vaccination is the key in a multi-layered approach to protect workers....Vaccines authorized by the [FDA] are highly effective at protecting vaccinated people against symptomatic and severe COVID-19 illness." Also, OSHA recommends that employers grant paid time off for employees to get vaccinated and points out that businesses with fewer than 500 employees may be eligible for tax credits under the American Rescue Plan if they provide paid time off for employees who decide to receive the vaccine and to recover from any potential side effects from the vaccine.

Office for Civil Rights (OCR), Department of Health and Human Services (HHS)

HHS's OCR has released [Guidance on Federal Legal Standards Prohibiting Disability Discrimination in COVID-19 Vaccination Programs](#). The guidance sets out the general legal anti-discrimination requirements of Section 504 of the Rehabilitation Act and Section 1557 of the Affordable Care Act, which, among other things, prohibit discrimination on the basis of disability. The guidance then discusses and applies those standards in the context of developing non-discriminatory vaccination sites and vaccine programs. Examples are provided under topics, such as eligibility criteria, criteria or methods of administration,

reasonable modifications to policies and protocols, effective communication and program accessibility.

Administration for Community Living (ACL)

ACL has released [Strategies for Helping Older Adults and People with Disabilities Access COVID-19 Vaccines](#). The document offers examples and promising practices for states, municipalities, community-based partners and anyone else working to ensure that older adults and people with disabilities can get vaccinated for COVID-19. The document describes how states and partners can improve access through:

- Outreach and education, including accessible websites and materials, to reach direct service professionals;
- Facilitating vaccine appointments, including helping with scheduling appointments and arranging for and providing transportation to and from appointments;
- Ensuring vaccination site accessibility and accommodations, including identifying barriers, ensuring accessibility of drive-thru vaccine sites and locating vaccine sites at disability and aging-friendly locations; and
- Meeting people where they are with mobile vaccination, including in-home vaccination and mobile vaccine clinics.

ACL also announced in the *Federal Register* the Availability of Program Application Instructions for the [University Centers of Excellence in Developmental Disabilities Network](#), [State Councils on Developmental Disabilities](#), [Protection and Advocacy Systems Network](#), and [Centers for Independent Living](#) to expand COVID-19 vaccine access for people with disabilities.

Internal Revenue Service (IRS)

According to this Internal Revenue Service [Fact Sheet](#), the American Rescue Plan (ARP) allows small and midsize employers, and certain governmental employers, to claim refundable tax credits that reimburse them for the cost of providing paid sick and family leave to their employees due to COVID-19, including leave taken by employees to receive or recover from COVID-19 vaccinations. The ARP tax credits are available to eligible employers that pay sick and family leave for leave from April 1, 2021 through September 30, 2021.

Federal Transit Administration (FTA)

FTA funds a national technical assistance center, the [National Center for Mobility Management](#) (NCMM), through a [cooperative agreement](#) and operates it through

a consortium of three national organizations—the American Public Transportation Association, the Community Transportation Association of America and Easterseals, Inc. The Center supports partnerships between transportation agencies and organizations that provide health-related, social, and community services to older adults, people with disabilities and low-income individuals and families with the goal of enhancing transportation options for these individuals.

According to [FTA FAQs](#), funds are available to provide transportation to and from COVID-19 vaccination sites as an emergency operation, and transit assets can support vaccination efforts as an incidental use.

State Policy and Guidance

This section describes state vaccination-related policies, including:

- State authority to mandate vaccinations;
- Employer vaccination programs, including mandatory programs;
- Vaccination distribution prioritization;
- Accessibility of websites, mobile apps and location;
- Accessible public transportation options; and
- Communication and outreach.

State Authority to Mandate Vaccinations

The authority of a state to mandate vaccinations has been litigated for over 100 years. The first major case decided by the U.S. Supreme Court concerned a Massachusetts ordinance requiring all adults be vaccinated against smallpox or face a fine. In *Jacobson v. Massachusetts*, 197 U.S. 11 (1905), the Court held that “the authority of the state to enact this statute is to be referred to what is commonly called the policy power—a power which the state did not surrender when becoming a member of the union under the Constitution...According to settled principles, the policy power of a state must be held to embrace, at least, such reasonable regulations established directly by legislative enactment as will protect the public health and public safety.” The Court recognized the existence of religious and medical exemptions.

The U.S. Supreme Court in *Zucht v. King*, 260 U.S. 174 (1922) also upheld the right of states to mandate vaccinations for school children. The National Conference of State Legislatures’ website includes a [webpage](#) on state school immunization requirements, including religious and philosophical exemptions.

Employer Vaccination Programs, Including Mandatory Programs

Currently, more than half of the states are considering bills that would prohibit employers from mandating COVID-19 vaccinations.² For example:

- **Oregon** [SB771](#) specifies that: “It is an unlawful employment practice for an employer to refuse to hire or employ an individual, to bar or discharge an individual from employment or to penalize or otherwise discriminate against an individual in compensation or in terms, conditions or privileges of employment: (a) Because of the individual’s vaccination history; (b) Because the individual refuses to obtain a vaccination; or (c) Because the individual fails to provide proof of immunity or immunization with respect to a communicable disease.”

One state considered (but did not enact) a bill mandating vaccinations under specified circumstances:

- **New York** introduced [AB11179](#), which would have mandated vaccinations, with a medical exemption: “If public health officials determine that residents of the state are not developing sufficient immunity from COVID-19, the Department shall mandate vaccination for all individuals or groups of individuals who, as shown by clinical data, are proven to be safe to receive such vaccination. Any individual who has received medical exemption from a licensed medical professional shall not be mandated to receive the COVID-19 vaccine and shall be excluded from the requirements of this section.”

In addition:

- The **California** Department of Fair Employment and Housing has issued a series of Frequently Asked Questions titled, “[DFEH Employment Information on COVID-19](#)” that parallel the guidance issued by EEOC, including a question on mandatory vaccinations. The guidance does not address whether or to what extent an employer should mandate vaccination within its workforce. Rather, the FAQs address how an employer complies with the state equivalent to the ADA if it decides to require employees to be vaccinated against COVID-19 infection with an FDA-approved vaccine.
- The **California** Department of Industrial Relations issued [FAQs regarding COVID-19 Testing and Vaccines](#). The document explains that if an employer requires an employee to obtain a COVID-19 test or vaccination, then the employer must pay for the time it takes for the testing or vaccination. An employer may not require the worker to utilize paid leave. Also, if an employer expressly requires an employee to obtain a COVID-19 test or a vaccination, or if the employee obtains the test or vaccination as a direct

² Arizona and Many Other States Begin Legislative Process to Protect Employees Against Discrimination Based on COVID-19 Vaccine Choices (National Law Review, May 24, 2021).

consequence of the employee's discharge of the employee's duties (i.e., the test or vaccination is effectively required for a job), then the employer must pay for the cost of the test or vaccination as it is a reimbursement for necessary business expense. If the testing or vaccination is performed at a location other than the employee's ordinary worksite, the employee may also be entitled to reimbursement for necessary expenses incurred to travel to and from the testing or vaccination location.

Examples of additional states providing employer guidance include:

- **Illinois:** [Employer Guidance: Compensation, Paid Leave, and the COVID-19 Vaccine](#)
- **Maryland:** [Vaccination FAQs for the Private Sector](#)
- **New Hampshire:** [COVID-19 Vaccine Information Frequently Asked Questions](#)
- **New Jersey:** [COVID-19 Business Information](#)
- **Oregon:** [COVID Vaccinations and the Workplace](#)

Vaccination Distribution Prioritization

The National Governors Association has developed a [list of state COVID-19 vaccination plans](#). CDC includes on its website [Interim Jurisdiction COVID-19 Vaccination Playbook Draft Executive Summaries](#) for all 50 states, the District of Columbia and territories.

According to the [National Council on Disability](#) (NCD), while the CDC and the National Academies of Science Engineering and Medicine framework proposed that people of all ages with comorbid and underlying conditions that put them at significantly higher risk be included in Phase 1b or Phase 1c of the vaccine rollout, a significant number of states have not prioritized persons with disabilities that fall into that category, including those with developmental disabilities.

Accessibility of Vaccination Registration Websites and Mobile Apps and Physical Sites

WebAIM, a nonprofit web accessibility organization, checked COVID-19 vaccine websites from all 50 states and the District of Columbia. On January 27, 2021, it found accessibility issues on nearly all 94 webpages, which included general vaccine information, lists of vaccine providers and registration forms. These findings were included in a [report](#) by Kaiser Health News.

Accessible Transportation to and from Vaccination Sites

Transit has long played an essential role in our communities, and the work being done to support the vaccination effort across the United State is no different. NCMM's [COVID-19 Resource Center](#) has compiled examples of how transit agencies are working with public

health agencies, community health organizations and others in their community in their vaccination efforts.

For example:

- **Vermont** offers free public transportation to vaccine clinics to Vermont residents who do not have access to their own transportation. The Vermont Public Transportation Association (VPTA) serves as the central point of contact and bills the ride to the appropriate funding source (Medicaid, Elderly/Disabled program or a special federal source for C19 if no other funding source applies). The rides are provided by regional public transportation providers using a combination of volunteer drivers in cars or vans/buses. These rides are ADA compliant and accommodate people with disabilities.
- The **Fort Wayne, Indiana** Community Transportation Network provides free transportation to low-income seniors and people with disabilities who need a ride to get the vaccine.
- The **Crawford County, Pennsylvania** Transportation Authority (CATA) provides free transportation to members of the general public who are registered with the Medical Center to receive the Pfizer vaccine. CATA provides ADA accessible door-to-door transportation for the program.

In addition:

- **Westchester County, New York** offers [free rides to vaccine sites](#) via paratransit.
- In **South Los Angeles, California**, the Sheriff's Department makes [home visits to administer the vaccine](#).

Communication and Outreach

Massachusetts state government has issued "[Stop COVID-19 – Vaccine Education and Outreach Materials](#)." These educational materials are available for use by vaccine providers, community-based organizations, state and local government and others to use in their public outreach and messaging efforts.

Local Policy and Guidance

Cities are developing disability-inclusive vaccination policies. For example:

- The **New York City** (NYC) Mayor's Office for People with Disabilities has issued extensive COVID-19 guidance, including [COVID-19 Vaccination Distribution Frequently Asked Questions](#). The guidance addresses vaccine eligibility and vaccine accessibility,

including websites, physical locations, accommodations and quiet rooms. NYC also deploys accessible [mobile vaccination vans](#) and has established a new initiative providing [in-home vaccinations](#).

- **Austin, Texas** has arranged for [free accessible rides](#) to and from vaccination sites and provides [policy guidance regarding accessibility](#).
- The **Chicago, Illinois** Mayor's Office for People with Disabilities has developed a web page devoted to providing [COVID-19 Resources](#).

DISABILITY-INCLUSIVE POLICY OPTIONS FOR STATE AND LOCAL POLICY-MAKERS

The SEED COVID-19 Collaborative for an Inclusive Recovery performed a review of federal, state and local policy guidance and implementation reports regarding vaccinations. Based on this information, state and local policymakers may want to consider addressing the following topics to maximize the likelihood their policies and programs are disability-inclusive:

- Employer workplace vaccination programs;
- Vaccination distribution prioritization;
- Vaccination registration websites and mobile apps;
- Vaccination physical sites and accommodations at sites;
- Transportation to and from vaccination sites; and
- Communication and outreach.

Employer Workplace Vaccination Programs

State and local policymakers may want to consider issuing guidance regarding employer workplace vaccination programs. Topics may include:

- 1** | Mandatory versus voluntary vaccination programs (with incentives).
- 2** | Exemptions addressing health/disability and religious concerns consistent with the ADA and Title VII of the Civil Rights Act.
- 3** | For mandatory programs, compensation for time spent obtaining vaccination and reimbursement for any costs associated with vaccination and transportation to and from site.
- 4** | For voluntary programs, paid or unpaid sick or family leave provided by employer.
- 5** | Providing accurate and timely information and incentivize workers to get vaccinated.
- 6** | Tax credits under the American Rescue Plan for small or mid-size business.

Vaccination Distribution Prioritization

According to the [NCD](#), people with disabilities are disproportionately affected by the COVID-19 virus, particularly individuals with intellectual or developmental disabilities (IDD) and individuals with disabilities with underlying health conditions (e.g., chronic lung disease, diabetes, chronic kidney disease, a serious heart condition or a weakened immune system) that place them at risk for contracting the virus, as well as a higher risk for hospitalization once the virus is contracted and a greater risk of dying from the virus.

Complications from, and death rates due to, COVID-19 for people with IDD are disproportionately higher when compared to people without IDD. Mortality rates have been cited to be up to 15% in individuals with IDD. For individuals with Down syndrome, there is an estimated four-fold increase in risk for COVID related hospitalization and ten-fold increase in COVID-19 related death.

State and local policymakers may want to consider adopting policies that:

- 1** | Prioritize vaccinations for people with disabilities, particularly people with IDD, those with limited mobility, those with serious mental health conditions or substance use disorders, and those with underlying health conditions, regardless of whether they live in their homes or nursing homes and assisted living facilities and other congregate settings such as acute psychiatric facilities and group homes.

Vaccination Registration Websites and Mobile Apps

Technological access requires ensuring that individuals with disabilities can easily navigate vaccine registration websites and any other digital components of the vaccination process. State and local policymakers may want to consider ensuring that:

- 1** | Vaccination registration websites are accessible to and usable by people with disabilities, including people who are visually impaired and use a screen reader, consistent with Web Content Accessibility Guidelines (WCAG) 2.1 A and AA.
- 2** | Updates about new priority groups and appointment slots are available in multiple formats, including over the phone, and caregivers are able to register individuals with disabilities directly when necessary.
- 3** | Communication by phone is accessible to individuals who are deaf and hard of hearing.

Vaccination Physical Sites and Accommodations at Sites

State and local policymakers may want to consider adopting procedures at vaccination sites to:

- 1** | Accommodate individuals with disabilities, including individuals who have difficulties waiting for long periods due to sensory disabilities. For example, some people with autism or who have experienced trauma are sensitive to lights, sounds, smells or touch, which makes waiting in lines in busy settings and wearing masks for long periods of time more difficult. Sensory access requires that vaccination sites proactively accommodate these needs with alternatives for those who need them.
- 2** | Ensure cognitive access. For example, both registration websites and vaccination sites should include explanations that are easy to understand and available in multiple modalities such as plain language or visual storyboards.
- 3** | Augment communication while wearing masks by other forms of communication. For example, to accommodate individuals who are deaf or hard of hearing, American Sign Language interpreters should be available at the time of vaccination.

Transportation to and from Vaccination Sites

States and local policymakers may want to consider adopting policies and procedures that:

- 1** | Support efforts by transportation, public health and emergency medical services sectors in identifying ways to collaborate to ensure all Americans living in urban and rural areas have access to accessible transportation necessary to receive a vaccination.

Communication and Outreach

Outreach is critical for ensuring that the disability community is engaged in the process of creating an accessible vaccine distribution process, sharing information within the community, increasing vaccine confidence and communicating how individuals with disabilities can be vaccinated with appropriate accommodations. As states and cities improve their distribution process, this active outreach is also necessary to improve awareness of changes for those who have attempted and been unable to sign up for or attend an appointment in the past due to accessibility issues. States and cities may want to consider adopting communications and outreach tactics to:

- 1** | Prepare toolkits for people with disabilities and conduct outreach to individuals with disabilities and their caregivers to assure them that their needs can be accommodated.
- 2** | Integrate into their vaccination distribution systems and communication and outreach efforts the establishment of relationships and links to Centers for Independent Living, protection and advocacy systems, University Centers for Excellence in Developmental Disabilities and State Councils on Developmental Disabilities.



WORKFORCE RETENTION:

INCLUSIVE COVID-19 MENTAL HEALTH POLICIES

As individuals begin to return to the workplace and employers look to retain their workforces, the design and implementation of inclusive mental health is especially important. The SEED COVID-19 Policy Collaborative for an Inclusive Recovery explored the impact of the pandemic on people's mental health and identified disability-inclusive policy options that state and local policymakers may want to consider.

IMPACT OF COVID-19 PANDEMIC ON MENTAL HEALTH

The COVID-19 pandemic and the resulting economic downturn is negatively affecting many people's mental health and creating new barriers for people with pre-existing mental health conditions and substance use disorders.

According to a recent study (February 10, 2021) by the Kaiser Family Foundation (KFF) titled, "[The Implications of COVID-19 for Mental Health and Substance Use](#)," throughout the pandemic:

- Many people across the country have experienced job or income loss, which has generally affected their mental health. Adults experiencing household job loss or lower income during the pandemic have consistently [reported](#) higher rates of symptoms of anxiety and/or depressive disorder compared to adults not experiencing household job loss or income loss (53% vs. 32%, respectively).
- Essential workers during the COVID-19 pandemic, such as health care providers, grocery store employees, and mail and package delivery personnel, have shown high rates of [poor mental health outcomes](#).
- The impact has been pronounced among the communities of color also experiencing disproportionately high rates of COVID-19 cases and deaths. Black and Hispanic adults have been more likely than white adults to report symptoms of anxiety and/or depressive disorder during the pandemic.

A [KFF Health Tracking Poll](#) from July 2020 also found that many adults are reporting specific negative impacts on their mental health and well-being, such as difficulty sleeping (36%), difficulty eating or overeating (32%), increases in alcohol consumption or substance use (12%) and worsening chronic conditions (12%), due to worry and stress over the coronavirus.

With respect to the impact of the COVID-19 pandemic in the workplace, Mental Health America has released a report, "[Mind the Workplace 2021](#)." Major findings include:

- Nearly 9 in 10 employees report that their workplace stress affects their mental health. Eighty-five percent of respondents agreed (somewhat to strongly) that their workplace stress affects their mental health.
- Nearly 3 in 5 employees feel that their employer does not provide a safe environment for employees who live with mental health conditions. Over 56% of respondents disagreed that their employers provide a safe and welcoming environment for employees who live with mental health conditions. Less than 5% of respondents strongly agreed with this statement.

Federal Policy and Guidance

Since the start of the pandemic, Congress has passed and Presidents have signed into law three stimulus bills that address the COVID-19 pandemic in general and mental health issues in particular. In addition, several federal agencies have issued policy guidance regarding COVID-19 and mental health, including:

- Centers for Disease Control and Prevention (CDC);
- National Institute on Mental Health (NIMH);
- Substance Abuse and Mental Health Services Administration (SAMHSA); and
- Equal Employment Opportunity Commission (EEOC).

Further, the U.S. Department of Labor's (USDOL) Office of Disability Employment Policy (ODEP) has resources focused on mental health and employment, including through the following initiatives:

- Employer Assistance and Resource Network on Disability Inclusion (EARN); and
- The Job Accommodation Network (JAN).

Congress

Congress has addressed in part the acute need for mental health and substance use services through stimulus bills enacted during the pandemic.

The Coronavirus Aid, Relief and Economic Security Act ([CARES Act](#)), a stimulus bill passed in March 2020, allocated funding for mental health and substance use services, [including](#) a \$425 million appropriation for use by SAMHSA, in addition to several provisions aimed at expanding coverage for, and availability of, telehealth and other remote care for those covered by Medicare, private insurance and other federally-funded programs. It also allowed for the Department of Veterans Affairs to arrange expansion of mental health services to isolated veterans via telehealth or other remote care services.

The Consolidated Appropriations Act, which was signed into law in December 2020, includes about [\\$4.25 billion](#) in funding for mental health and substance use services. It also builds on existing legislative efforts to boost insurer compliance with federal [mental health parity rules](#).

The [American Rescue Plan Act of 2021](#), enacted on March 11, 2021, supports a range of mental health-related policies and programs under [Subtitle H—Mental Health And Substance Use Disorder](#), including funding for: community mental health services; prevention and treatment of substance abuse; mental health and substance use disorder training for health care professionals, paraprofessionals and public safety officers; youth suicide prevention; and an education and awareness campaign encouraging healthy work conditions and use of mental health and substance use disorder services by health care professionals, among other funding opportunities.

Centers for Disease Control and Prevention (CDC) and National Institute on Mental Health (NIMH)

Throughout the pandemic, [CDC](#) has released general considerations and resources addressing the mental health and well-being of both general populations and specific, high-risk groups.

According to the [CDC](#) (updated January 22, 2021) and the [National Institute on Mental Health](#), stress during the pandemic can sometimes cause the following:

- Fear and worry about your own health and the health of your loved ones, your financial situation or job, or loss of support services you rely on.
- Changes in sleep or eating patterns.
- Difficulty sleeping or concentrating.
- Worsening of chronic health problems.
- Worsening of mental health conditions.
- Increased use of tobacco and/or alcohol and other substances.

People who may be more likely to experience stress during the COVID-19 pandemic include:

- Frontline workers, such as [health care providers and first responders](#).
- Essential workers who work in the [food industry](#).
- People who have lost their jobs, had their work hours reduced or had other major changes to their employment.

- People who have existing [mental health conditions](#).
- People who are [at higher risk for severe illness](#) from COVID-19 (for example, older people and people of any age with certain [underlying medical conditions](#)).
- People [caring for family members or loved ones](#).
- [People who have disabilities](#) or a developmental delay.
- People in some [racial and ethnic minority groups](#).

Substance Abuse and Mental Health Services Administration (SAMHSA)

Throughout the pandemic, [SAMHSA](#) has released guidance on mental health, including resources and information. On March 11, 2021, SAMHSA [announced](#) that it will direct \$1.65 billion in Substance Abuse Prevention and Treatment Block Grant funding and \$825 million in Community Mental Health Services Block Grant funding to states and territories.

- The *Community Mental Health Services Block Grant* program provides funding for states and territories to provide comprehensive community mental health services and address needs and gaps in existing treatment services for those with severe mental health conditions.
- The *Substance Abuse Prevention and Treatment Block Grant* program provides funding for states and territories to plan, implement and evaluate activities to prevent and treat substance use disorder. This funding will also allow recipients to maximize efficiency in existing treatment and recovery infrastructure, promote support for providers and address unique local needs to deliver substance use disorder prevention.

Funding allocation tables can be viewed here:

- [FY 2021 Community Mental Health Block Grant Program COVID-19 Supplemental Awards](#)
- [FY 2021 Substance Abuse Prevention and Treatment Block Grant Program COVID-19 Supplemental Awards](#)

Equal Employment Opportunity Commission (EEOC)

The Equal Employment Opportunity Commission (EEOC) released, "[What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws](#)," which was updated on June 28, 2021.

The following question and answer concerns mental health:

D.2. If an employee has a preexisting mental illness or disorder that has been exacerbated by the COVID-19 pandemic, may he now be entitled to a reasonable accommodation (absent undue hardship)?

Although many people feel significant stress due to the COVID-19 pandemic, employees with certain preexisting mental health conditions, for example, anxiety disorder, obsessive-compulsive disorder, or post-traumatic stress disorder (PTSD), may have more difficulty handling the disruption to daily life that has accompanied the COVID-19 pandemic.

As with any accommodation request, employers may do the following: ask questions to determine whether the condition is a disability; discuss with the employee how the requested accommodation would assist him and enable him to keep working; explore alternative accommodations that may effectively meet his needs; and request medical documentation if needed.

Employer Assistance and Resource Network on Disability Inclusion (EARN)

EARN issued a [Mental Health Toolkit](#) that addresses understanding mental health in the workplace, providing accommodations to employees (also see ODEP webpage on [Accommodations for Employees with Psychiatric Disabilities](#)), offering Employee Assistance Programs and ensuring access to treatment.

Job Accommodation Network (JAN)

JAN's webpage, "[Accommodation and Compliance: Mental Health Conditions](#)," offers information about mental health conditions and the Americans with Disabilities Act (ADA) and accommodating employees with mental health conditions, as well as publications, articles, resources and events regarding mental health conditions.

For individuals with mental health conditions, having accommodations to help manage panic attacks can be helpful. These may include:

→ [Flexible schedule](#)

→ [Modified break schedule](#)

- [Rest area/private space](#)
- [Support animal](#)
- [Support person](#)
- [Identifying and reducing triggers](#)

Also, JAN issued [Coronavirus \(COVID-19\), Stress, and Mental Health Conditions](#).

State Policy and Guidance

States face a major challenge in ensuring that mental health needs are being met—both for people with pre-existing mental health conditions whose care was disrupted and for people with new mental and behavioral health needs brought on by the pandemic. States are implementing measures to address the issue, providing a range of policy options—largely falling into the following categories:

- Telemental health;
- Racial equity;
- Health care and other frontline workers; and
- Mental health programs for students (elementary, secondary and postsecondary).

Telemental Health

According to the Commonwealth Fund’s report [“How States Can Meet Mental Health Needs During the Pandemic and Beyond,”](#) (July 28, 2020) and a Commonwealth Fund Blog, [“Using Telehealth to Meet Mental Health Need During the COVID-19 Crisis,”](#) (June 18, 2020), a critical avenue for addressing mental and behavioral health needs during the pandemic is the use of telehealth. According to the Commonwealth Fund:

- 33 states directly or implicitly required Medicaid plans to cover telemental health services through emergency orders.
- States that did not require coverage were predominantly those that have not expanded Medicaid under the Affordable Care Act: 10 of the 14 non-expansion states did not require Medicaid to cover telemental health services.

The Commonwealth Report also specifies that while requiring Medicaid to cover telemental health assists individuals eligible for Medicaid, it leaves out people covered by private insurance. Many such insurers do not cover telemental health services. As of the date of the report, only 13 states required private insurers to reimburse telehealth encounters at the same rate as in-person encounters (telehealth parity), while 8 other

states require at least some degree of telehealth coverage.³ While all 36 Blue Cross and Blue Shield insurers [expanded telehealth coverage](#) at the beginning of the pandemic, they did so in a time-limited fashion. It is unclear if such coverage will continue throughout and after the pandemic.

The availability of coverage is even less clear among self-insured employer plans. While high-deductible self-insured plans have been allowed to offer telehealth services without a deductible through 2021 due to the pandemic, guidance from the Centers for Medicare and Medicaid Services and the Health and Human Services Office of Civil Rights [does not apply to self-insured plans](#).

According to the National Conference of State Legislatures' (NCSL) Policy Snapshot, "[Behavioral Health and COVID-19](#)" (December 2020), changes in federal regulations have made it easier for behavioral health providers to offer services through telehealth. States can adopt these changes and other policy options—like expanding the kinds of providers that can participate in telehealth (including out-of-state providers); easing requirements for mental health professionals to be able to provide telehealth services (or services generally); or requiring insurance providers and other payers to cover telehealth services—to improve access to telehealth services.

For example:

- **Louisiana** enacted [HB 449](#), which expands the types of health providers who can perform telepsychiatric evaluations to include psychiatric mental health nurses as long as certain requirements are met, including that such an examination takes place over videoconferencing technology.
- **Maryland** enacted [SB 402](#), which allows for certain telehealth transactions to take place asynchronously, or over mediums that do not necessarily support "real time" transactions of information, such as self-reported medical conditions.
- **New Jersey** enacted [AB 3843](#), which requires the state's Department of Banking and Insurance to issue a bulletin mandating that telemedicine services should be treated the same as in-person visits and paid at the same rate as in-person services.

In addition, NCSL explains that the Drug Enforcement Administration has updated its guidance for the duration of the pandemic to allow remote prescribing of medication-

³ See a report by the [Center for Connected Health Policy](#), discussed in more detail below, finding, on the contrary, that 6 states had telehealth parity laws before the pandemic and that 14 additional states implemented such laws after March 2020.

assisted treatment (MAT) for substance use disorders without an initial in-person office visit or without recurring in-person office visits to authorize refills.

For example:

- **Minnesota** [HB 105](#) extends certain waivers issued in the emergency declaration by the governor through June of 2021. These waivers include allowing initial evaluations and prescriptions to be completed through a telehealth visit and increasing the number of take-home doses of MAT medications a provider can prescribe.
- **Vermont** [HB 742](#) authorizes certain health professionals to renew a patient's existing buprenorphine prescription without requiring an office visit.

According to the National Governors Association report, "[The Future of State Telehealth Policy](#)," people with serious mental health conditions may have heightened anxiety and privacy concerns for online treatment such as individual or group therapy sessions via telehealth. At the **Rhode Island** Department of Behavioral Healthcare, Developmental Disabilities & Hospitals (BHDDH), staff accessed the New England Telehealth Resource Center to provide twice weekly technical assistance webinars for behavioral health organizations on telehealth best practices, equipment and other considerations like safety and confidentiality shortly after the COVID crisis began and the use of telemedicine increased. BHDDH, Rhode Island's Executive Office of Health and Human Services and Medicaid collaborated to develop a contract with provider agencies through funding from a Centers for Medicare and Medicaid Services (CMS) grant that provided additional technical assistance around telehealth. BHDDH provided the organizations with links to funding opportunities through the Federal Communications Commission to buy telehealth equipment, as well as funding from the Rhode Island Foundation for telehealth infrastructure, of which several providers took advantage.

NCSL's article, "[States Turn to Telehealth During the Pandemic](#)" (October 29, 2020), provides a helpful general overview of telehealth policy options and discusses many of the types of state initiatives described in the bullet-points below.

- **Telehealth bills enacted since March 2020.** 36 states, the District of Columbia and Puerto Rico have enacted more than [79 bills](#) changing telehealth policies, either permanently or temporarily, during the pandemic.
- **Shoring up private insurance coverage.** 15 states and the District of Columbia enacted legislation to shore up private insurance coverage for telehealth in other ways, such as covering different types of services via telehealth or limiting out-of-pocket expenses for telemedicine.

- **Medicaid and telehealth.** For those [enrolled in Medicaid](#), all 50 states and the District of Columbia have expanded access to telehealth through emergency waiver authorities and other actions since the start of the pandemic.
- **Payment parity between in-person and telehealth visits.** According to the [Center for Connected Health Policy](#), a number of states had comprehensive payment parity laws before the pandemic. Since March 2020, additional states have established payment parity requirements—many of which are in effect only during the declared state of emergency. States pursued payment parity through a mix of [legislative](#) and [executive action](#).
- **State agency health plans.** Amending state employee health plans to cover telemental health services.
- **Suspension of the requirement to establish a patient-provider relationship through an initial in-person visit.** Before the pandemic, many states required an in-person visit to establish a patient-provider relationship before a telehealth consultation could occur, especially if the provider was prescribing a controlled substance. After emergency orders were declared, several states suspended this requirement and allowed a patient-provider relationship to be established via telehealth. For example, [West Virginia](#) removed the requirement that people receive counseling to receive opioid use disorder medications and **Nebraska** issued an executive order expediting licensure for mental health providers.
- **Licensed mental health providers.** States are also allowing more types of providers to receive reimbursement for telehealth services during the pandemic, specifically those providing behavioral and mental health care.
 - [Louisiana](#) now allows behavioral health providers (licensed professional counselors, psychologists, licensed clinical social workers, etc.) to see patients through telehealth.
 - **Minnesota** [EO 20-28](#) allows out-of-state mental health providers to render telehealth aid and permits certain license boards to provide license and registration relief during COVID-19 emergency.
 - [New Hampshire](#) now allows all types of health care providers to receive Medicaid and private insurance reimbursement for telehealth services.
 - **California** [S221](#) would codify the regulations adopted by the Department of Managed Health Care and the Department of Insurance to provide timely access standards for health care service plans and insurers for nonemergency health care services. The bill would require both a health care service plan and a health insurer to ensure that appointments with nonphysician mental health and substance use disorder providers are subject to the timely access requirements.

- **New Jersey** [S3175](#) would permit expedited licensure in mental health professions for certain individuals during state of emergency or public health emergency.
- **Expanding settings.** States are also pursuing policies addressing various barriers patients may face when seeking services through telehealth. One strategy is to expand the number of settings where patients can receive telehealth care (e.g., home and school settings)
- **Making Permanent Telehealth Flexibilities.** A growing topic of conversation is whether states plan to make permanent the many telehealth flexibilities they pursued during COVID-19. **Utah** has indicated that some emergency actions, such as coverage for telephone-based mental health services, will be permanent. Policymakers in **Arkansas** have introduced a bill, [H1176](#), which would ensure that reimbursement in the state Medicaid program for certain behavioral and mental health services provided via telemedicine continues after the public health emergency caused by COVID-19.

Racial Equity

The National Academy for State Health Policy (NASHP) includes on its website, "[How States Collect, Report, and Act on COVID-19 Race and Ethnicity Data](#)" (updated March 16, 2021). The website includes maps detailing which states are reporting race and ethnicity in their case, mortality, testing and vaccination data, and the state action chart provides information on how states plan to focus on equity beyond the COVID-19 pandemic. NASHP has also developed a toolkit titled, "Resources for States to Address Health Equity and Disparities."

In an article, "[States Address Racial and Ethnic Disparities in their COVID-19 Responses and Beyond](#)," (March 22, 2021) NASHP highlights actions in several states.

- **Washington's** state legislature passed [HB 1783](#) in 2020 to create the Office of Equity. In February 2021, Governor Jay Inslee [named](#) a director of the program to be in office by March 8.
- In **Florida**, bills introduced in the House of Representatives and State Senate ([HB 183](#) and [SB 404](#)) require each county health department to designate a minority health liaison. The liaison will collaborate with the state Office of Minority Health and Health Equity on implementation of programs, policies and practices.
- Racial equity impact assessments are another strategy to address equity beyond the pandemic. These assessments help determine the impact of a policy or budget item on racial and ethnic groups. [Seven states](#) (CO, CT, FL, IA, MD, NJ and OR) require racial impact statements. The following states recently took action to establish racial impact assessments:

- **Maine's** legislature passed [LD 2](#), a bill that requires the inclusion of racial impact statements in the legislative process. The bill allows legislative committees to request state agencies to provide analysis of the impact of pending legislation on historically disadvantaged racial populations.
- The **Virginia** General Assembly passed [HB 1990](#), a bill that allows the chairs of the House Committee for Courts of Justice and Senate Committee on the Judiciary to request racial and ethnic impact statements from the Joint Legislative Audit and Review Commission with respect to proposed criminal justice bills. Committee chairs may not request more than three racial and ethnic impact statements during a single session of the Assembly.
- The **Washington, DC** Council passed [B23-0038](#), the Racial Equity Achieves Results (REACH) Act. Among other activities to ensure racial equity in the District, the legislation creates a racial impact assessment requirement for council legislation. The District's [Council Office of Racial Equity](#) (CORE) is charged with evaluating legislation prior to committee markup for its potential [impact on racial equity](#).

States are taking important steps to immediately address the impact of COVID-19 on racial and ethnic disparities and incorporating health equity approaches into their systems moving forward. In their 2021 [state of the state addresses](#), 21 governors highlighted strategies to address racial and ethnic disparities. Several governors specifically discussed racism and racial injustices, citing how communities of color were disproportionately impacted by COVID-19 and articulating their commitment to improvement.

Policymakers in several states have introduced legislation specifically addressing racial equity and mental health.

- **Illinois** [SB 1841](#) would create the Advisory Council on Mental Illness and Substance Use Disorder Impacts on Employment Opportunities within Minority Communities.
- **Michigan** [EO 2020-55](#) created a racial disparities task force that includes a charge to remove barriers to accessing mental health care.
- **Ohio** has established the COVID-19 Minority Health Strike Force that has developed a [Blueprint](#) that includes mental health recommendations to increase access to mental health and addiction services for communities of color, by directing state agencies to work together and with local communities to increase culturally meaningful screening, early intervention and linkage to treatment in primary health care and community settings.

Health Care and Other Frontline Workers

Several states have enacted legislation addressing the needs of health care and other front-line workers. For example, several states established COVID-19 mental health hotlines for specific groups, including frontline workers ([Nevada](#)) and the general public ([Texas](#)), as well as states that have established new or expanded support, such as **Wisconsin** establishing an outreach and substance use disorder recovery program for homeless veterans and **Minnesota** creating telehealth alternatives to replace school-based mental health services for children and their families.

Legislators in several states have introduced bills that specifically address the mental health concerns of health care and other frontline workers.

- **California** [AB 562](#) states that it is the intent of the Legislature to enact legislation to establish a mental health support system for licensed health care providers who have provided direct care to COVID-19 patients (there is likely intended to be additional language added as an amendment in the future).
- **Connecticut** [SB 1002](#)/ [HB 6595](#) amends the existing presumption of compensability relating to PTSD to include health care workers engaged in activities dedicated to mitigating or responding to the COVID-19 emergency, as well as to corrections officers and emergency medical services personnel and dispatchers (the law currently only covers police, parole officers, and firefighters) who witness certain traumatic events in the course of their employment.
- **Florida** [HB 1617](#) requires the Office of Insurance Regulation to issue an emergency rule waiving certain costs for mental health services provided to frontline health care workers for a specified time period and providing retroactive applicability. No later than 15 days after the effective date of this act, the office must issue an emergency rule waiving all co-pays, deductibles and other out-of-pocket expenses for mental health services provided to frontline health care workers during the COVID-19 pandemic.
- **New Jersey's** relevant policy proposals include the following:
 - [AB 4166](#) establishes a public awareness campaign concerning programs and services for first responders, health care workers and other frontline workers suffering from PTSD during the COVID-19 pandemic.
 - **New Jersey** [AB 4167](#) requires the Department of Human Services to provide psychiatric service dogs to first responders, health care workers and other frontline workers suffering from post-traumatic stress disorder (PTSD) due to the COVID-19 pandemic.
 - **New Jersey** [SB 2447](#) establishes a toll-free helpline for first responders and health care workers experiencing mental health issues related to the COVID-19 pandemic.

- **New York** [SB 1301](#) directs the Commissioner of Mental Health to create a workgroup and report regarding frontline worker trauma informed care.
- **Pennsylvania** [HR 975](#) urges the Governor to take action in coordination with the Insurance Department to waive in-network cost-sharing provisions for mental health services for frontline essential workers.
- **Vermont** [SB 42](#) establishes the Emergency Service Provider Wellness Commission. The commission will recommend best practices for expanding mental health services available to emergency service providers.

Mental Health Programs for Students (Elementary, Secondary and Postsecondary)

State legislators in several states have introduced legislation focusing on the mental health programs for students in elementary, secondary and postsecondary education programs.

- **California** [SB 1369](#) establishes the Emergency Program for Pupil Mental Health within the state's Department of Education, which would operate a grant program to provide funding to local educational agencies to provide mental health services following an event likely to cause sustained and ongoing pupil trauma (such as school violence).
- **Illinois** [HB 212](#) amends the Children's Mental Health Act of 2003 and provides that the Children's Mental Health Plan shall include recommendations for ensuring all Illinois youth receive mental health education and have access to mental health care in the school setting.
- **Illinois** [HB 5852](#) creates the Mental Health Task Force for Communication, Intelligence, Empathy, Emotion and Empowerment. It provides that the purpose of the task force is to explore and determine a method and program for all students in primary and secondary school to receive mandated mental health care.
- **North Carolina** [SB 844](#) funds additional school mental health support personnel in response to anticipated greater need due to impacts from COVID-19.
- **New Jersey** [SB 2715](#) creates a grant program to encourage school districts to partner with institutions of higher education in training school-based mental health services providers.
- **South Carolina** [HB 3901](#) expresses support for evidence-based programs that facilitate social and emotional learning and the professionals necessary to meet the physical and mental health needs of all students during and beyond the COVID-19 pandemic, as recommended by the social emotional learning alliance of South Carolina.

DISABILITY-INCLUSIVE POLICY OPTIONS FOR STATE AND LOCAL POLICY-MAKERS

State and local policymakers have engaged in varying levels of innovation during the COVID-19 pandemic to ensure residents' mental health needs are met. Policymakers have an opportunity to continue such innovation by learning from their peers and taking steps to protect the advances made over the past several months by making permanent policies that will expire with their associated emergency declarations.

Specifically, state and local policymakers may want to consider adopting policy options that facilitate the retention of workers whose mental health has been affected by the pandemic, as well as employees with pre-existing mental health and substance abuse disorders who may be experiencing new barriers to employment.

Policy options for consideration, outlined in the following sections, include:

- Expanding access to telemental health;
- Ensuring equity and accessibility in the provision of telemental health;
- Educating managers, supervisors and employees and securing feedback;
- Addressing the needs of frontline workers, particularly health care workers;
- Addressing the needs of transition-age youth; and
- Making flexibilities permanent.

Expanding Access to Telemental Health

State and local policymakers may want to consider taking some or all of the following actions to expand access to telemental health services:

- 1** | Expand private coverage to include telemental health services;
- 2** | Expand Medicaid to cover telemental health services;
- 3** | Establish payment parity for online services;
- 4** | Eliminate co-payments for telemental health services;
- 5** | Expand types of mental health providers who can be reimbursed for conducting assessments and providing telemental health services and provide licensure flexibility for out-of-state residents;
- 6** | Provide technical assistance to mental health providers on how to allay heightened anxiety and privacy concerns for online treatment; and
- 7** | Suspend the requirement that patient-provider relationships be established through initial in-person visits.

Ensuring Equity and Accessibility in the Provision of Telemental Health

While telemedicine may improve access and reduce barriers to health care access during the pandemic for many people, barriers and challenges can exist for racial and ethnic minorities and individuals with disabilities.

For racial and ethnic minorities, state and local policymakers may want to consider adopting a comprehensive strategy for advancing equity in the provision and delivery of mental health services during and after the pandemic. The strategy may include assessing whether state agency and private sector policies and actions create or exacerbate systemic barriers to full and equal participation, and adopting action steps to eliminate the barriers. State and local policymakers also may want to consider creating a racial disparities task force and action plan/roadmap that includes a charge to remove barriers to accessing mental health care, including increasing culturally meaningful screening, early intervention and linkage to treatment in primary health care and community settings.

For people with disabilities, state and local policymakers may want to consider adopting a policy ensuring that video and audio platforms used to provide telehealth services are accessible to and usable by all (including built-in accessibility features and interoperability with assistive technology), consistent with generally accepted technical standards (e.g., WCAG 2.1 A and AA). For example, individuals who are visually impaired may require accessibility features such as high-resolution screens.

According to the National Association of the Deaf, the [best way to use telehealth](#) is if a deaf or hard of hearing person can see the health care worker and the captions and/or the interpreter on the same screen. Not all health care workers have the right telehealth system to include the captions or interpreter on the screen.

In addition, some individuals with disabilities may require reasonable accommodations because the accessibility features in the platforms are not sufficient to ensure effective and meaningful communication. In these situations, reasonable accommodations would be determined on a case-by-case basis pursuant to an interactive process between the individual and the provider.

Educating Managers, Supervisors and Employees and Securing Feedback

In order to retain workers returning to the workplace, it will be critical for state and local agencies and private sector employers to address employee mental health concerns created or exacerbated by the pandemic. State and local policymakers may want to

consider establishing an infrastructure to develop or share existing resources and provide training regarding:

- 1 | Strategies for addressing stress, managing panic attacks and identifying and reducing triggers;
- 2 | Application of the ADA, including reasonable accommodations for persons with mental impairments; and
- 3 | Establishment of Employee Resource Groups focused on mental health concerns.

Addressing the Needs of Frontline Workers, Particularly Health Care Workers

State and local policymakers may want to consider policies that target the mental health needs of frontline workers, particularly health care workers. Policy options include:

- 1 | Establishing a mental health support system;
- 2 | Waiving certain costs (co-pays, deductibles, out-of-pocket expenses) for mental health services provided to frontline health care workers;
- 3 | Initiating a public awareness campaign;
- 4 | Providing a service or support/assistance dog to certain workers; and
- 5 | Establishing a toll-free hotline.

Addressing the Needs of Transition-Age Youth

State and local policymakers may want to consider adopting policies focused on the mental health needs of transition age youth. Policy options include:

- 1 | Establishing an emergency program for pupil mental health;
- 2 | Funding additional school mental health support personnel; and
- 3 | Supporting training programs for teachers and administrators.

Making Flexibilities Permanent

A growing topic of conversation among state and local policymakers is whether states should plan to make permanent the many flexibilities, particularly related to telehealth, adopted during the COVID-19 pandemic. States and local policymakers may want to consider adopting policy options that include:

- 1 | Establishing a task force/working group to study the long-term effects of the changes before making them permanent.



PREPARING FOR WORK:

INCLUSIVE WORKFORCE READINESS POLICIES

In the wake of the COVID-19 pandemic, coordination and collaboration among government agencies to promote workforce readiness are more important than ever. State- and city-supported workforce readiness efforts focus on areas such as education, apprenticeships, employment and vocational rehabilitation, and include work-based-learning experiences.

Work-based learning, in particular, has been impacted profoundly by the pandemic. These learning opportunities include the following types of experiences:

- **Apprenticeship:** An industry-driven, high-quality career pathway where employers can develop and prepare their future workforce, and individuals can obtain paid work experience, classroom instruction and a portable credential.
- **Internship:** Paid or unpaid work experiences within for-profit and/or not-for-profit organizations that expose individuals to the world of work on a “trial” basis to build work skills and to help individuals better frame their career pathways.
- **Mentoring:** A relationship whereby a person, through support, counsel, friendship, reinforcement and constructive example, helps another person to reach his or her work and life goals. Mentoring relationships provide valuable support to individuals by offering effective role models for leadership, interpersonal and problem-solving skills.
- **Job shadowing:** Pairing an individual with an employee, who works in a business related to the career interests of the individual, in order for the individual to learn the essential aspects of the job or organization as well as certain behaviors or competencies.
- **Paid employment:** The employment of individuals in initial jobs to build basic work skills that assist in laying a foundation for a future career path.
- **Service learning:** Allows participants to gain work experience through service-focused activities and positions that benefit others and the community, while also advancing the goals of a given curriculum.
- **Workplace tours:** Tours that provide opportunities for individuals to explore and observe occupations.
- **Informational interviewing:** A way for individuals to build a network of interpersonal connections, and to discover new places of work and fields of interest by asking questions of and gathering information from various employers and professionals.
- **Summer work experiences:** Specific employment opportunities set up in partnership with the educational or workforce system where the wages are paid through participation in U.S. Department of Labor, vocational rehabilitation or other initiatives.

This section of the framework highlights disability-inclusive workforce readiness programs and initiatives relating to:

- [Apprenticeship programs for youth and adults](#);
- [Secondary and postsecondary education programs](#);
- [Workforce development programs operated by American Job Centers](#);
- [Vocational rehabilitation programs, including pre-employment transition programs](#);
- and
- [Coordination and collaboration among agencies](#).

The framework also includes [policy options](#) that state and local policymakers may want to consider in order to ensure that workforce readiness programs are inclusive of people with disabilities.

APPRENTICESHIP PROGRAMS FOR YOUTH AND ADULTS⁴

Apprenticeships and other work-based learning programs across the country have been interrupted as a result of the COVID-19 pandemic. Many in-person instruction sites, both in the classroom and at the workplace, temporarily shut down or permanently closed. This subsection looks at how states and local communities are implementing apprenticeship programs and other work-based learning programs during the pandemic, including how career and technical education (CTE) connects on-the-job learning with related technical instruction. The general lessons learned are applicable to disability-inclusive apprenticeship programs. This subsection also examines what states and local communities are doing to implement the related technical instruction and on-the-job learning components of apprenticeships and other work-based learning programs, as well as assure financial stability to individuals who previously relied on wages received as part of their on-the-job learning experience.

Federal Efforts to Simplify Related Technical Instruction Requirements in a Pandemic

On March 16, 2020, the U.S. Department of Labor’s Office of Apprenticeship released Bulletin 2020-51, “[Flexibilities Available for the Delivery Method of Related Instruction](#).” This bulletin was released to allow registered apprenticeship sponsors the needed flexibility to move technical instruction related to the apprenticeship’s on-the-job training (Related Technical Instruction or RTI). Rather than immediately requiring a formal approval process

⁴ This subsection is based on Adjustments to Work-Based Learning in Response to COVID-19 (National Governors Association) and The Future of Apprenticeship: Inclusion, Expansion, and the Post-Pandemic World of Work (Council of State Governments, to be published in June 2021).

(as outlined in Bulletin 2010-13) to change the method of instruction, sponsors and partners must only notify the Office of Apprenticeship within 10 business days regarding new uses of online technical instruction in their programs. However, the partners must adhere to the formal approval process within 60 days of the change.

Apprenticeship Programs in Virtual Settings

According to the [National Center on Education and the Economy](#), the top performing countries in apprenticeship prioritized three strategies:

- Flexibility in sequencing of academic and work-based modules, such as allowing students to focus on completing academic credits when work-based opportunities were limited, as opposed to requiring a rigid order of completing academic and work-based modules;
- Moving assessments of student competency and skills to video conference; and
- Allowing students to advance through the program with the expectation they would complete subjects or work placements in the future.

Below are examples from Apprenticeship.gov of how apprenticeship partners are successfully conducting and delivering components of apprenticeship in a virtual setting:

- [El Camino Community College](#) transitioned related training instruction for their aerospace technician apprenticeship program in machining and electronics into an online format.
- [Mississippi Gulf Community College](#) is offering related training instruction for the Bank Branch Manager Registered Apprenticeship Program online. With apprentices located across two states and 22 locations, this makes online learning the optimal delivery method. The college uses Canvas, a software delivery platform, to track apprentices' hours and progress.
- [Monroe Community College](#) is developing four online classes in tooling and machining, including Machine Shop Theory, Blueprint I, Blueprint II and Applied Machinist Math.
- [Net.America Institute](#) is leveraging technology platforms to deliver a public health apprenticeship program offered by Maryland-based nonprofit organization Access to Wholistic and Productive Living Inc.
- [Raytheon](#) is using a blend-learning model that merges virtual and in-person components to diversify their apprenticeship training delivery.
- [Trident Technical College](#) is translating and integrating occupations such as accounting, cybersecurity, hotel operations and criminal justice into an online format.

→ [The Urban Institute](#) is working with a variety of employers to implement an online platform that allows apprenticeship programs to track apprentices' on-the-job and related instruction online and support mentorship.

State Efforts to Regulate Related Technical Instruction and On-The-Job Learning Requirements in a Pandemic

Related technical instruction commonly supplements on-the-job training in apprenticeship programs. It often takes place in a classroom, usually on a community or technical college campus, and on-the-job learning often takes place on the work site. However, many educational institutions' and companies' physical workplaces either closed temporarily or remain closed due to the pandemic. As a result, work-based learning agreements that require a certain number of hours in the classroom or on the worksite may need to be reconsidered.

Schools and employers are attempting to be creative and flexible to continue participants' work-based learning experiences. In most cases, the exact details of how the work-based learning requirements are fulfilled during a pandemic is a local decision made in partnership with the participant, parents and/or caregivers, education institution leadership and employers.

The following are ways that state and local policymakers can help to guide this process:

- Releasing guidance for community colleges and educational providers. [[Iowa](#), [New York](#) and [Minnesota](#)]
- Implementing cross-sector partnerships to support transition to distance learning and bridging the digital divide. [[California](#)]
- Encouraging the use of flexible grading strategies for work-based learning programs, such as grades based on routine phone calls, virtual meetings instead of in-person observation and the use of a pass/fail system where appropriate. [[Kentucky](#)]
- Specifying how the requirements of work-based learning will be impacted by school closures. [[Michigan](#)]

State Efforts to Financially Support Individuals No Longer Receiving On-The-Job Learning-Related Pay

Some apprenticeship programs pay participants for their contributions to the workplace during the on-the-job learning portion. For example, employers are required to pay apprentices in registered apprenticeship programs. During the COVID-19 pandemic, many employers had to close their businesses either temporarily or permanently. Work-

based learning participants that were previously paid by these employers may no longer receive their pay as a result. If employers put participants “on hold,” they are not eligible for unemployment insurance. As such, counseling apprentices on how to apply for unemployment insurance has become important. *Please note that there are a variety of work-based learning experiences and certain actions are only applicable for certain types of work-based learning.*

The following are examples of ways that states are seeking to prevent income loss for these participants:

- [Texas](#) Governor Greg Abbott waived regulations to make sure funding would continue to support college work-study programs.
- [Washington](#) created a step-by-step guide for registered apprentices to apply for unemployment insurance.

State Efforts to Continue Supporting Work-Based Learning Participants

States can also support work-based learning for high school students with the use of pre-apprenticeship activities. The following are examples of virtual pre-apprenticeship activities states are launching:

- [Washington's](#) Career Connect Washington—the state’s work-based learning initiative—launched CareerConnect@Home, a platform where students in grades 7-12 can learn from employers about different careers and potential employers.
- [Ohio](#) provides information and resources regarding the operation of Ohio’s primary program targeted towards high-school students seeking to transition into a career, Career-Technical Education, during the COVID-19 pandemic. The state provides: information sheets regarding COVID-19 operations; safety requirements for work-based learning programs; and requirements for professional development adjustments for each of the 16 Career-Technical Education “pathways” (arranged by subject matter) it offers. [Ohio](#) also provides resources for virtual job-coaching during the pandemic.
- [Kentucky](#) used federal Education Stabilization Funds to move CTE courses onto the KYONLINE education network and expand offerings of CTE certificates to more K-12 schools.

SECONDARY AND POSTSECONDARY EDUCATION PROGRAMS⁵

While youth with disabilities are not inherently at a higher risk for contracting COVID-19, youth with disabilities may be disproportionately affected by the disruption of services caused by COVID-19, such as: special education and related services included in their Individualized Education Programs (IEPs)⁶ in accordance with the Individuals with Disabilities Education Act (IDEA) and companion state legislation; access to accommodations included in a student's plan under Section 504; planning and transition services; and access to other daily supports and services. Consistent with Section 504 and the ADA, students with disabilities are also provided effective and meaningful opportunities for postsecondary education and workforce training as they prepare for life beyond high school.

Important to note, as reported by the Education Commission of the States, connecting postsecondary education to workforce development is a high-interest area of state policy as state policymakers seek to support a highly skilled and competitive workforce. For example, in 2019, state leaders in 49 states considered at least 258 bills related to the topic, and in 2020, the trend continued with more than 300 bills considered in 41 states plus the District of Columbia.⁷

Regarding opportunities for youth with disabilities in secondary education, The Center for Advancing Policy for Employment for Youth (CAPE Youth), reports that many states and local communities have implemented remote learning environments in light of COVID-19; however, these environments may limit access to the critical services students normally receive during a traditional in-person school day. This may impact the ability of students with disabilities to access high-quality secondary education that meets their specific learning needs. In order to provide students with critical services required for their successful transition into adulthood, states and local communities are thinking creatively to adapt to a remote environment.

States and local communities have supported the needs of students with disabilities during the COVID-19 outbreak through:

5 A Registered Apprenticeship Program (RAP) is a proven model of apprenticeship that has been validated by the U.S. Department of Labor or a State Apprenticeship Agency.

6 An IEP is a plan targeted towards a specific child with a disability. The IEP contains statements regarding the child's present levels of academic achievement and functional performance, regarding measurable annual goals and how the child's progress toward meeting those goals will be measured, as well regarding special services and aids to be provided to the child to enable the child to meet those goals (including the extent to which the child will or will not participate with children without disabilities in a regular class setting).

7 This subsection is based on State COVID-19 Response: Youth with Disabilities, which was developed by the Center for Advancing Policy on Employment for Youth.

- Assistive technology;
- Distance learning;
- Family engagement;
- Individualized education programs;
- Mental health;
- Telehealth; and
- Transition.

Assistive Technology

According to IDEA and companion state special education laws, an assistive technology device is any item, piece of equipment or product system used to increase, maintain or improve functional capabilities of individuals with disabilities. Youth and young adults with disabilities use assistive technologies daily, including while in the classroom.

Assistive technologies aid students in accessing both the curriculum and the physical resources they need to have a successful learning experience. For example, speech-to-text software allows students who are deaf or hard-of-hearing to access content like movies, screen readers allow students with visual impairments to access instructional content such as websites and switches allow students with physical disabilities to operate computers and other educational tools and devices. Access to these technologies has become even more critical during the COVID-19 pandemic with the resulting move to distance learning. States and local communities across the country are adapting in various ways so that students can continue to access educational content using assistive technologies or effective substitutes. Some examples of those efforts include:

- Offering ideas for how to apply and replicate traditional accommodations in a remote setting, particularly by using free online resources and apps. [[Michigan](#), [Indiana](#) and [Florida](#)]
- Making assistive technology directly available to students. [[Michigan](#) and [Wisconsin](#)]

Distance Learning⁸

As a result of the COVID-19 pandemic, many schools have shifted to distance learning formats, or blended formats, in lieu of traditional classroom teaching. This unprecedented shift poses new challenges to families, educators and students, but has particularly important implications for students with disabilities. While methods of support for these

⁸ This subsection is based on information from State Workforce Development Policies Resources for Distance Service Delivery (Education Commission of the States).

students are well established in the classroom setting, distance learning has brought a new set of associated needs.

Consistent with federal and state civil rights and special education legislation, students with disabilities may require a range of new accommodations, including assistive technology, one-on-one teaching, alternative assignment mediums and schedule flexibility. In response to the outbreak of COVID-19, states have taken steps to make students, parents and educators aware of useful resources, tools and information that can facilitate distance learning. Some examples include:

- Providing administrators and educators with best practices and strategies for distance learning. [Arizona, [Delaware](#) and [California](#)]
- Providing guidance and resources for families to assist in the distance learning process. [[Massachusetts](#), [Texas](#) and [Vermont](#)]

Family Engagement

Family⁹ engagement and advocacy play a key role in helping youth with disabilities transition to adulthood. As states adapt to the challenges of providing quality equitable services to families remotely, the role of families has become even more important in supporting youth with disabilities as they navigate the transition into adulthood, workforce training, post-secondary education and/or employment from home.

Some states and local communities have developed innovative approaches for helping families engage in the distance learning and transition process during the COVID-19 pandemic, and for engaging families directly. Examples include:

- Providing resources for families so they can effectively support their child's education. [[Indiana](#) and [South Carolina](#)]
- Guiding schools on how to effectively coordinate and communicate with families and caregivers. [[Louisiana](#)]

Individualized Education Program (IEP)

A plan for each child with a disability is developed, reviewed and revised according to IDEA and companion state special education laws. The plan includes goals, measures of performance, services that need to be provided and necessary accommodations. Updates to IEPs to reflect changes to the learning environment are critical to keeping students with disabilities on track with their transition plans throughout the COVID-19 pandemic.

The COVID-19 pandemic forced states and schools to think creatively about how to conduct IEP meetings, what to revise within the IEPs regarding service delivery and how to continue providing students with the individualized services and supports they need. Examples of these efforts include:

- Offering recommendations and guidelines for hosting virtual IEP meetings. [[Oklahoma](#) and [Virginia](#)]
- Providing tele-facilitation services to improve communication during virtual IEPs. [[Colorado](#) and [New Jersey](#)]
- Providing guidance and resources for updating and supplementing IEPs to account for limitations imposed by COVID-19. [[Washington](#) and [Idaho](#)]

Mental Health

The COVID-19 pandemic has affected the mental health of many Americans, including youth. The National Child Traumatic Stress Network explains that changes of circumstances brought on by COVID-19—such as isolation, economic hardship, unmet basic needs and greater exposure to violence and abuse at home—may result in trauma for some children. While these changes can affect any child, transition-aged students with disabilities may be particularly at risk. A 2016 [study](#) surveyed 648 education and community professionals from 49 states. Survey participants indicated that nearly half of their transition-aged students with disabilities were experiencing some mental health concerns.

Mental health includes emotional, psychological and social well-being. Youth with disabilities may benefit from a wide range of mental health services that support their education, career development, self-advocacy or personal lives. Mental health services are critical for students and young adults with disabilities in helping them cope with the effects of the pandemic.

Many states recognize that mental health services are increasingly critical for students and young adults with disabilities. States are finding innovative ways to continue providing mental health support to students who are already receiving it and to help students cope with the additional effects of the pandemic. Examples include:

- Offering guidance to school mental health providers on providing tele-counseling services. [[Hawaii](#) and [Delaware](#)]

⁸ Note that “family” here is defined broadly as adults and children related biologically, emotionally or legally. It includes single parents, blended families, unrelated individuals living cooperatively and partnered couples who live with biological, adopted and/or foster children.

- Connecting students and parents to resources and services for coping with mental health issues during COVID-19. [[Hawaii](#), [Colorado](#) and [Florida](#)]
- Offering direct support services to youth with mental health needs and their families. [[New Jersey](#)]

Telehealth

The use of telehealth services has [increased considerably](#) as a result of the COVID-19 pandemic. Telehealth is the use of digital information and communication technologies, such as computers and mobile devices, to access health care services remotely. For example, when someone attends an appointment with their doctor via video conferencing, they are taking advantage of telehealth services. The recent expansion of telehealth—as a way to enable people to access medical care while maintaining social distance—has allowed students, youth and young adults with disabilities to access necessary services, such as occupational therapy, speech therapy and mental health counseling services, from their homes.

States have made efforts to continue providing services to students, including those with disabilities, through telehealth and teletherapy, including offering resources to service professionals providing telehealth services to students and young adults. [[Florida](#), [Arkansas](#) and [Delaware](#)]

Transition

Transition is the period when adolescents focus on planning for postsecondary education and careers. Key aspects of transition include goal setting, career assessment and career exploration, among others. Schools have come up with unique ways to provide transition planning and services without students being physically present.

As students plan for their transition into employment or post-secondary education, not all activities and/or services can continue as they did prior to COVID-19. For example, students may not be able to participate in the same work-based learning programs, including job-shadowing and internships. To address these changes, states developed resources to share with schools, families and students so they can still prioritize transition planning and services during the shift to distance learning. Examples include:

- Offering guidance to educators and service providers on how to continue providing transition services during COVID-19. [[Vermont](#) and [Iowa](#)]
- Providing resources to families so that they can continue transition planning on their own. [[Colorado](#), [Texas](#) and [West Virginia](#)]

WORKFORCE DEVELOPMENT PROGRAMS OPERATED BY AMERICAN JOB CENTERS⁹

Workforce development programs operated by American Job Centers (AJCs) provide a range of assistance to jobseekers, students and businesses. Due to COVID-19, they have had to adjust their delivery methods. It is critical that AJCs continue to operate during COVID-19 because of the rise in unemployment and the growing need to provide employment and training services to unemployed and underemployed individuals. To do so, many states and local workforce development agencies found innovative ways to offer program and service delivery and are providing online and remote options for training, referrals, career counseling, job listings and other employment-related services.

Governors, state agencies and local communities and private partnerships play important support roles for increasing AJCs' ability to create a remote service delivery system that meets the needs of job seekers, students and businesses. This subsection outlines strategies states and local communities can implement to deliver workforce system employment and training services remotely.

Levers to Expand Access to Workforce Employment and Training Services

States and localities can implement a variety of levers to expand access to workforce employment and training services. For example:

- State and local policymakers can support public-private partnerships to expand access to online job matching accessible platforms and training programs for under- and unemployed workers, including workers with disabilities. [[Connecticut](#)]
- Governors can apply for and leverage federally funded Dislocated Worker Grants with statewide Rapid Response discretionary funds to provide employment and training services, including remote services. [[Rhode Island](#)]

State and Local Efforts to Provide Virtual Services for Job Seekers

As states issued stay-at home orders, AJCs closed offices to protect workers and customers. Local areas at the municipal and county levels announced these closures online and started directing participants to online resources for continued virtual services.

- Due to closure of AJCs, states can use accessible online and virtual options for education and training for the Title I Youth Program. U.S. Department of Labor Employment and Training Administration programs have flexibility in how they provide

⁹ This subsection is based on Delivering Workforce System Employment and Training Services Remotely (National Governors Association). The National Association of State Workforce Agencies is tracking how state workforce agencies respond to COVID-19. (See 2021 State of the Workforce Report: Responding to the Pandemic.)

program services to provide virtual services, such as eLearning, phone calls and virtual meetings. [[Michigan](#)]

- Workforce Innovation and Opportunity Act youth funds can be used for purchasing supplies or equipment, such as laptops, tablets or Internet hotspots and software, to assist in providing accessible virtual services.
- States are supporting adult education providers and participants through the disruptions of the pandemic. [[Indiana](#), [Maine](#) and [Texas](#)]
- States are utilizing accessible online platforms to provide job matching and employment services.
- Due to COVID-19, states have become innovative in designing accessible virtual job fairs. [[Tennessee](#)]
- States are also partnering with the private sector to provide accessible online training for job seekers. [[Minnesota](#) and [Kentucky](#)]
- States are providing accessible online platforms for employers to post job openings. [[Idaho](#), [New Jersey](#) and [Ohio](#)]

VOCATIONAL REHABILITATION PROGRAMS¹⁰

Vocational Rehabilitation (VR) Programs are federally-funded, state-run programs that provide vocational and rehabilitative services to help individuals with disabilities prepare for, secure, or retain employment. As VR grantees continue operations for the benefit of individuals with disabilities during the COVID-19 pandemic, the Rehabilitation Services Administration (RSA), within the U.S. Department of Education's Office of Special Education and Rehabilitative Services, issued [Questions and Answers](#) in response to inquiries concerning the administration of the State VR Services and American Indian VR Services programs under the Rehabilitation Act of 1973, as amended, and Business Enterprise programs under the Randolph-Sheppard Act. While these questions were submitted by grantees under these programs, many of the answers apply generally to RSA formula grantees.

State vocational rehabilitation agencies were forced to move to a distance service delivery model during the pandemic. Detailed in the following sections are examples of effective practices adopted by VR agencies. These include:

¹⁰ This subsection is based on information from Resources for Distance Service Delivery (Workforce Innovation Technical Assistance Center).

- Guidance for distance services and service providers;
- Supported employment guidance; and
- Virtual pre-employment transition services.

Guidance for Distance Services and Service Providers

In response to the pandemic, state VR agencies are:

- Issuing general guidelines regarding the operation of their programs during the pandemic, including providing remote services to customers and temporary exceptions to certain requirements. [[Nebraska](#), [Michigan](#), [Tennessee](#) and [Texas](#)]
- Adopting guidelines for teleworking by staff and supervisors, including model agreements. [[New Jersey](#), [Minnesota](#), [Indiana](#) and [Utah](#)]
- Issuing guidance regarding services and fees by community VR communications. [[Indiana](#) and [Wisconsin](#)]
- Establishing resources and resource pages that include work from home technology and accessibility resources. [[Connecticut](#), [Tennessee](#) and [Arkansas](#)]
- Adopting guides for VR counselors. [[Utah](#)]
- Adopting fully capable tele-counseling services and using teleconferencing to provide services. [[Maryland](#) and [Virginia](#)]
- Entering into confidentiality agreements with employees' household members to ensure that confidential information is safe while employees are working from home. [[New Mexico](#)]

Supported Employment Guidance

State VR agencies have provided pandemic-related guidance related to the provision of supported employment services, including:

- General guidance to counselors. [[Pennsylvania](#) and [Rhode Island](#)]
- General guidance to community rehabilitation providers. [[Pennsylvania](#) and [Rhode Island](#)]
- Authorization of telehealth services for supported employment services. [[Maryland](#)]

Virtual Pre-Employment Transition Services

State VR agencies have provided pandemic-related guidance related to the provision of pre-employment transition services, including:

- General guidance to staff regarding provision of virtual services. [[Michigan](#), [Nebraska](#), [Pennsylvania](#), [Rhode Island](#) and [Utah](#)]

- General guidance to community rehabilitation providers. [[Pennsylvania](#)]
- General guidance to schools. [[Pennsylvania](#), [Minnesota](#), [Michigan](#) and [Nebraska](#)]

COLLABORATION BETWEEN VOCATIONAL REHABILITATION AND WORKFORCE DEVELOPMENT AGENCIES¹¹

This subsection describes ways that state VR services and programs are collaborating with state workforce development agencies and with state and local workforce development boards in response to COVID-19. Title IV of WIOA amended the Rehab Act to, in part, establish the state VR program as a core partner in the workforce development system. VR provides vocational and rehabilitative services to individuals with disabilities to help them prepare for and maintain employment.

The effects of COVID-19 on the health system and economy have devastated states, necessitating joint efforts across workforce, human services and economic development agencies to address its effects on the workforce. Fortunately, in many states and local communities, the partnerships established through WIOA have prepared workforce development and VR systems to quickly respond in a coordinated and effective way.¹²

The following are six ways state VR and workforce programs can and do coordinate and leverage each other's resources to address the effects of COVID-19 on workers with disabilities in both the short- and long-term:

- **Regular coordination meetings.** VR administrators, state workforce development boards, workforce agencies and other key workforce development stakeholders have consistent, systematic lines of communication that allow them to regularly coordinate service delivery and ensure overall strategic alignment. [[Arizona](#), [Connecticut](#), [Maine](#), [Michigan](#), [Mississippi](#), [Missouri](#), [Texas](#), [Utah](#) and [Virginia](#)]
- **Open sharing of resources with the public and across program partners.** VR programs and agencies have platforms through which they are able to disseminate relevant information with participants, others who may be eligible for services and other entities operate in coordination or that serve similar populations. [[Connecticut](#), [Delaware](#), [Iowa](#), [Missouri](#) and [Oregon](#)]

¹¹ This subsection is based on State Workforce Development System Partnership with Vocational Rehabilitation Services to Address the Needs of People with Disabilities Impacted by COVID-19 (National Governors Association).

- **Connection of customers to essential service jobs.** VR agencies ensure their own access to up-to-date information about jobs that are immediately available, especially those that are deemed essential, so they are able to quickly match those they serve with positions for which they are qualified. [Illinois, Indiana, Michigan, Ohio and Virginia]
- **Coordination of referrals.** Coordinate across agencies to refer individuals to all programs and benefits they are eligible for to ensure all individuals are aware of their options and can receive the maximum level of support. [Illinois, Michigan and Oklahoma]
- **Cross-Staffing to Support Partner Programs.** Coordinate with other programs and agencies to ensure consistent staff capacity in agencies experiencing higher than normal levels of demand to maintain consistent service delivery. [Maine, New Hampshire and Wyoming]
- **Cost-Sharing.** Coordinate across agencies and programs to identify opportunities to share the costs incurred due to COVID-19 response efforts to minimize the cost burden to any one entity. [Virginia]

DISABILITY-INCLUSIVE POLICY OPTIONS FOR STATE AND LOCAL POLICYMAKERS

State and local policymakers have engaged in varying levels of innovation during the COVID-19 pandemic to ensure youth and adults continue to receive the benefits of disability-inclusive workforce readiness programs and initiatives. Policymakers have an opportunity to continue such innovation by learning from their peers and taking steps to protect the advances made over the past year in the post-pandemic world.

Specifically, state and local policymakers may want to consider adopting the following policy options for ensuring that workforce readiness programs are inclusive of people with disabilities. These policy options are applicable to the range of workforce readiness programs and initiatives described in this section, including apprenticeship programs, secondary and postsecondary programs and vocational rehabilitation programs. State and local policymakers may want to consider the following topics to maximize the likelihood their policies and programs are disability-inclusive:

- Online accessibility and usability;
- Assistive technology devices and services;
- Reasonable accommodations;
- Mental health;

- Training and provision of technical assistance to managers, supervisors and people with disabilities;
- Coordination and collaboration.

Online Accessibility and Usability

To be inclusive, state and local policymakers may want to consider adopting policies that:

- 1** | Ensure websites, mobile apps and online systems that are used to provide remote services and supports (including teleworking for staff, tele-counseling for clients, tele-facilitation between service providers and clients, workshops, digital coaching and job fairs) are accessible to and usable by persons with disabilities consistent with WCAG 2.1, A and AA.

Assistive Technology Devices and Services

The COVID-19 pandemic has highlighted the importance of access to and use of assistive technology devices and services as many apprenticeship experiences, education, work, vocational rehabilitation training and social service delivery have gone virtual. State and local policymakers may want to consider adopting policies that:

- 1** | Ensure people with disabilities have access to assistive technology devices and services to enable them to fully participate in employment-related services and supports.

Reasonable Accommodations

The COVID-19 pandemic has re-emphasized the importance of engaging in an interactive process around reasonable accommodations, such as flexible work schedules and providing personal protective equipment. States and local agencies may want to consider innovative strategies that:

- 1** | Encourage service provider/employer and people with disabilities to engage in an interactive process to ensure that people with disabilities enjoy an opportunity to benefit/participate in a way that is as effective and meaningful as that provided to others.

Mental Health

Mental health services are increasingly critical for people with pre-existing mental health conditions and others to help them cope with the additional stresses of the pandemic. States and local agencies may want to consider innovative ways to continue providing mental health services and supports, such as:

- 1** | Providing telemental health services.

- 2** | Offering resources to mental health service professionals.
- 3** | Connecting students and parents with resources and services.
- 4** | Offering direct support services to individuals and families.

Training and Provision of Technical Assistance to Managers, Supervisors and People with Disabilities

The COVID-19 pandemic has necessitated how workforce readiness programs are provided and thus requires new and different skills and understandings for managers and supervisors and the understanding by people with disabilities (and their families) of their rights. State and local policymakers may want to consider policies that enhance the training and provision of technical assistance to managers, supervisors and people with disabilities, particularly related to:

- 1** | The availability of telework as a reasonable accommodation.
- 2** | Ensuring accessibility and usability of online platforms.
- 3** | Appropriate selection of assistive technology.
- 4** | Providing mental health services and supports.

Coordination and Collaboration

The COVID-19 pandemic has placed significant strain on the various state and local service delivery systems, including systems serving people with disabilities, thereby requiring even more efficiencies. To enhance coordination and collaboration among agencies, state and local policymakers may want to consider:

- 1** | Establishing infrastructure that facilitates communication among agencies.
- 2** | Entering into memoranda of understanding.
- 3** | Scheduling regular coordination meetings.
- 4** | Open sharing of data.
- 5** | Open sharing of resources and blending and braiding of funding.
- 6** | Connection of customers to essential services.
- 7** | Coordination of referrals.
- 8** | Cross-training of staff.