

BUSINESS RESOURCE GUIDE:

Recruiting, hiring, and maintaining employees with disabilities

ABILITY HIRE



DIVISION OF
REHABILITATION
SERVICES

SCOPE

Division of Rehabilitation Services (DRS) provides individualized assistance and support to eligible South Dakotans with disabilities as they prepare for, enter, maintain, or advance in employment opportunities. DRS also recognizes the importance of providing support to businesses as they recruit, hire, maintain, or advance employees with disabilities.

AMERICANS WITH DISABILITIES ACT (ADA)

HOW DOES THE ADA DEFINE A DISABILITY?

- ⚙️ The ADA's definition of a disability applies to individuals that meet one of the following:
 - ⚙️ He/she has a physical or mental impairment that substantially limits one or more of his/her major life activities;
 - ⚙️ He/she has a record of such an impairment; or
 - ⚙️ He/she is regarded as having such an impairment.
- ⚙️ Other individuals may also be protected under the ADA within the following certain circumstances:
 - ⚙️ Those, such as parents, who have an association with an individual known to have a disability; and
 - ⚙️ Those who are coerced or subjected to retaliation for assisting people with disabilities in asserting their rights under the ADA.
- ⚙️ Major life activities include the following: breathing, walking, talking, hearing, seeing, sleeping, caring for one's self, performing manual tasks, and working. It also includes major bodily functions such as immune system functions, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Source: <https://adata.org/faq/what-are-major-life-activities>

YOU MAY BE WONDERING WHETHER OR NOT THE ADA REGULATIONS PERTAIN TO YOUR BUSINESS.

- ⚙ According to ADA's federal regulations, the employment provisions (Title I) apply to businesses of fifteen employees or more.
- ⚙ However, in South Dakota the employment provisions pertain to all businesses. The South Dakota Human Relations Act prohibits employment practices that discriminate on the basis of disability (SD Cod. Laws Sec. 20-13-1 et seq.). A separate state law prohibits employers from discriminating against applicants or employees on the basis of genetic information (SD Cod. Laws Sec. 60-2-20). Both laws cover all public and private employers, regardless of size.

Source: <http://www.blr.com/HR-Employment/Discrimination/Disabilities-ADA-in-South-Dakota#>

WHO CAN I CONTACT IF I HAVE QUESTIONS ON THE ADA?

ROCKY MOUNTAIN ADA CENTER

Phone 719-444-0268 (V/TTY)
Videophone 719-358-2460
Email adainfo@adainformation.org
Website <http://www.rockymountainada.org>

SOUTH DAKOTA COALITION OF CITIZENS WITH DISABILITIES

Phone 605-945-2207
V/TDD 1-800-210-0143
Email shellyp@sd.ccd.org
Website <http://www.sd-ccd.org/>





Oftentimes, businesses have expressed concerns that they simply don't know who to get in contact with when it comes to getting started with recruiting and hiring qualified employees with disabilities. Essentially, the first step that businesses need to do is identify effective outreach and recruitment strategies. For example, establishing partnerships with disability and workforce development agencies that are located in your communities is an effective strategy in getting started.

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When you're looking at hiring qualified employees with disabilities, here are some of the best practices to get started:

- ⚙️ Learn about local available resources for training, awareness, and support
- ⚙️ Create opportunities for job shadowing
- ⚙️ Conduct informational interviews
- ⚙️ Host a Disability Mentoring Day
- ⚙️ Participate in National Disability Employment Awareness Month (observed in October)
- ⚙️ Embed disability components into training for HR and new employees, and include disability in diversity training
- ⚙️ Participate in job fairs
- ⚙️ Create internships
- ⚙️ Connect with the Division of Rehabilitation Services and Service to the Blind and Visually Impaired offices that are available in our state, and on how you can partner with them and to distribute job announcements to job seekers

Source: <http://thinkbeyondthelabel.com/learning-tools/bestpractices>

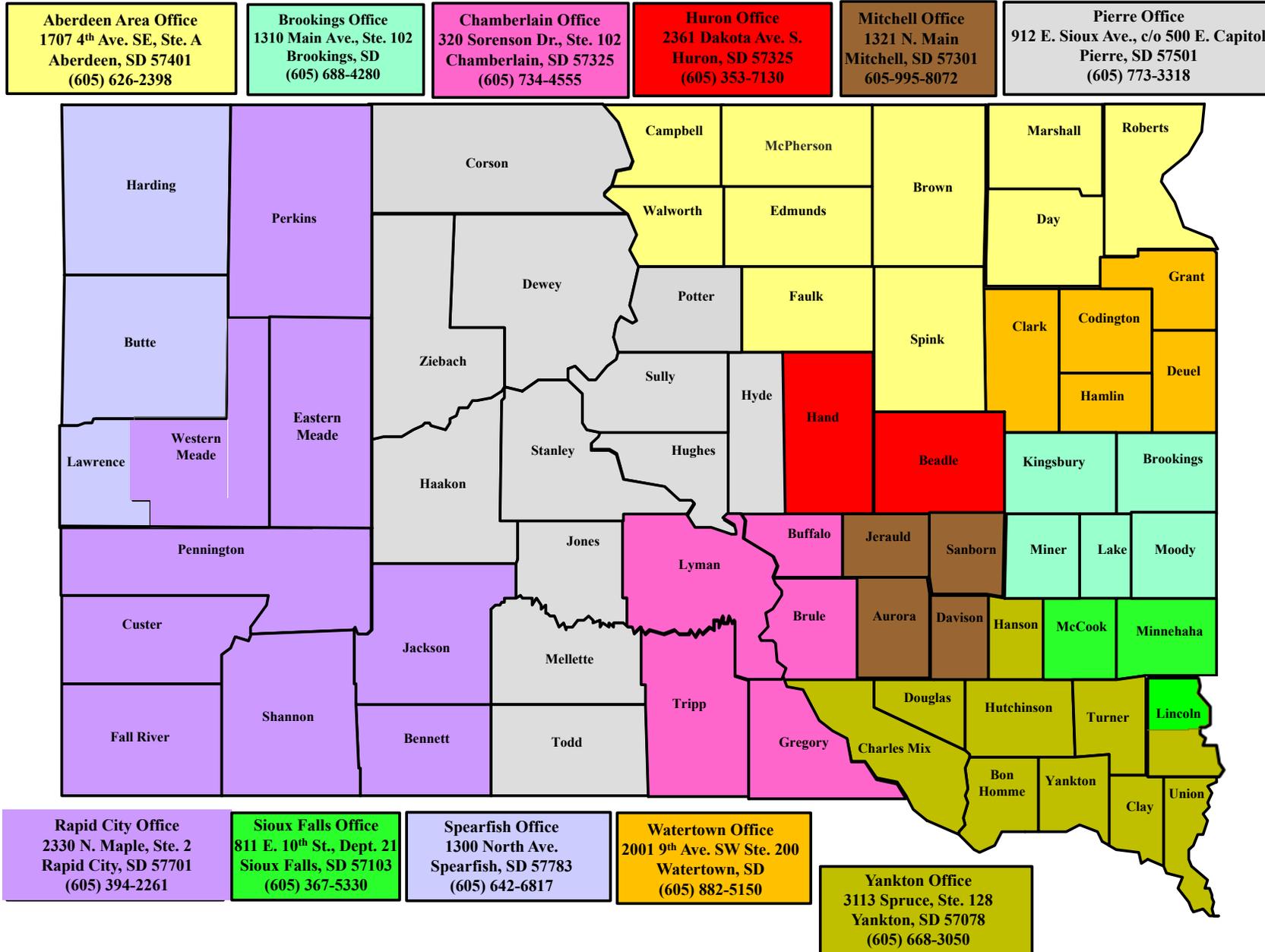
South Dakota has two Vocational Rehabilitation (VR) agencies that provide individualized assistance and support to eligible South Dakotans with disabilities as they prepare for, enter, maintain, or advance in employment opportunities. The two agencies are Division of Rehabilitation Services (DRS) and Service to the Blind and Visually Impaired (SBVI). DRS and SBVI have offices located throughout the state providing coverage in all of the counties. The next two pages will display contact information for DRS and SBVI offices throughout the state.

If you prefer to contact a single point-of-contact at the state level you can contact DRS's business specialist to receive information and support:

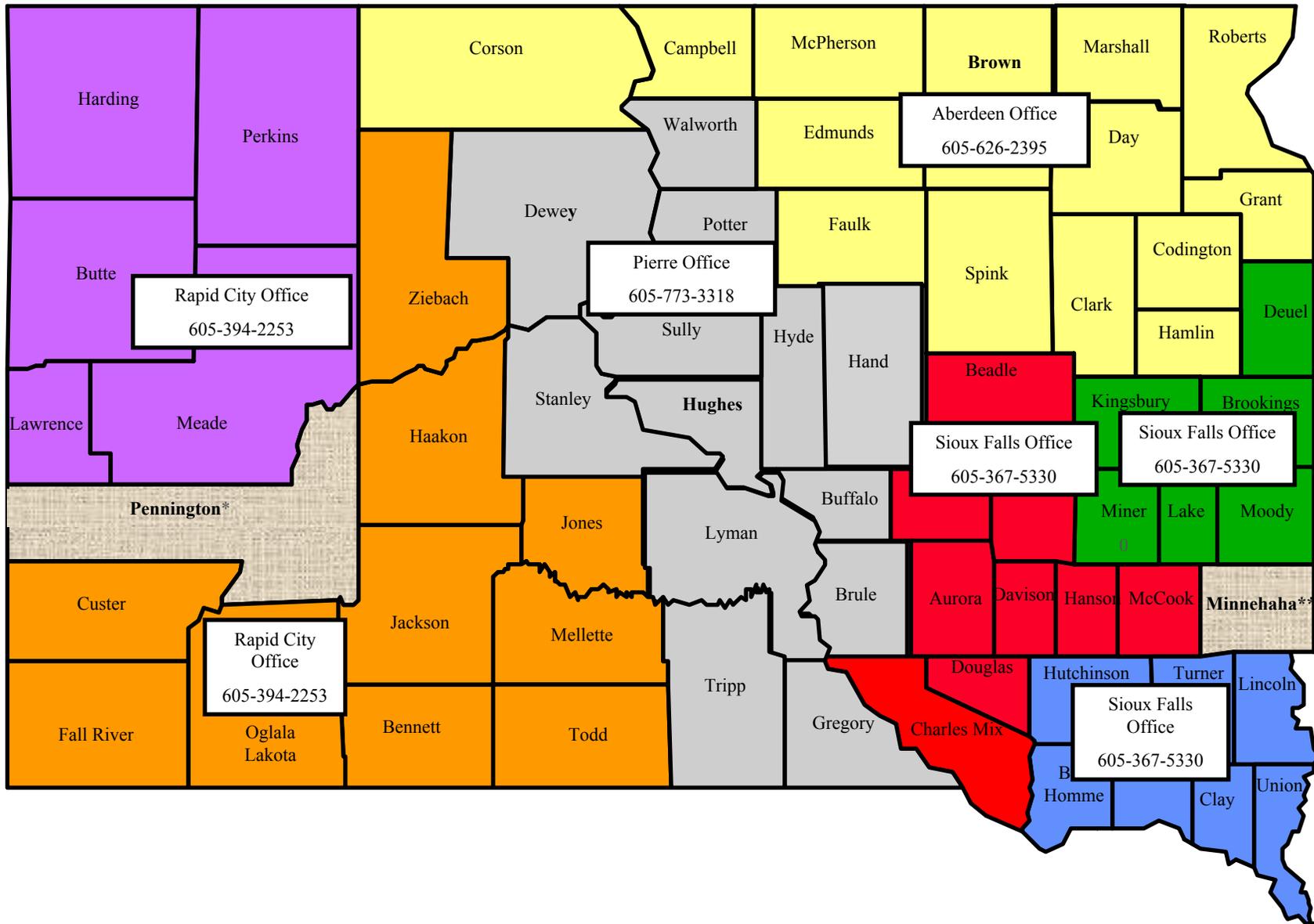
KIMBERLY HOBERG

Phone	605-626-2398
Toll Free	800-439-3417
Email	kimberly.hoberg@state.sd.us

Division of Rehabilitation Services' Office/Territory Coverage



Service to the Blind and Visually Impaired's Offices/Territory Coverage





Writing or having well-written, detailed job descriptions for positions available within your business can serve as a multipurpose tool that can be of benefit. Job descriptions can assist with recruiting and retaining a pool of qualified candidates for job openings. It also allows for qualified candidates to review essential and marginal job functions to ensure they can fulfill all of the essential functions with or without reasonable accommodations.

ADA regulations do not require for businesses to develop or maintain job descriptions. However, maintaining job descriptions can actually be beneficial for a couple of different

reasons. As previously mentioned, written job descriptions can assist with identifying whether applicants will be able to perform the essential tasks that are required for positions that are being applied for. Second, well-written job descriptions can be beneficial when defending a claim of disability discrimination. Therefore, job descriptions that are prepared before advertising and/or interviewing can play an important factor as evidence of what are the position's essential functions in such cases.

When writing or updating job descriptions, it is important to have at least the following minimum components:

- ⚙ Job title
 - ⚙ Salary range
 - ⚙ Specification of supervisory authority
 - ⚙ Essential functions (job function is essential if one or more specific conditions apply)
 - ⚙ Marginal functions (job functions are incidental duties, but a person could adequately fill a position without these duties)
 - ⚙ Physical requirements (recommended or encouraged to consider using language to ensure that no one is excluded and here is a helpful resource: <https://www.tmhra.org/ADAToolkit/5-WriteADA-JobDescrip.pdf>)
 - ⚙ Minimum qualifications
- Source: <http://www.askearn.org/topics/recruitment-hiring/job-descriptions/>



**DID YOU
KNOW?**

**THE EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
(EEOC) IS THE ENFORCING
AGENCY OF THE ADA.**

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INTERVIEWS



“Applicants with disabilities, like all other applicants, must be able to meet the employer requirements for the job (such as education, training, experience, skills, or licenses) and perform the essential functions of the job. But how can the employer find this out without violating the sometimes confusing rules of the ADA? By remembering one basic rule: **You can ask applicants about their abilities, but not their disabilities.**”

– DBTAC– Great Lakes ADA Center

As a general rule, please remember that the ADA (more specifically, Title I) does limit businesses’ abilities to ask disability-related questions during the pre-job offer, post-job offer, and during employment. Regardless, when it comes to conducting interviews with people with disabilities the guidelines remain the same when interviewing other candidates.



Listed below are some examples of interview questions you can or can't ask.



CAN'T ASK

Do you have any physical or mental impairment that would prevent you from performing the job you seek?

How many days were you sick during your last job?

What medications are you currently taking?



CAN ASK

Are you able to perform the essential function of the job you are seeking with or without accommodations?

Can you meet our attendance requirements?

or

How many days were you absent from your last job?

Are you currently using illegal drugs?

If you would like further information on job interviews please feel free to check out the following resources:

- ⚙ Interview information retrieved from the Employer Assistance and Resource Network (EARN): <http://www.askearn.org/topics/recruitment-hiring/interviews/>
- ⚙ Pre-employment disability-related questions and medical examinations information retrieved from the Equal Employment Opportunity Commission (EEOC): <https://www.eeoc.gov/policy/docs/preemp.html>

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REASONABLE ACCOMMODATIONS

What is the definition of a reasonable accommodation? Generally speaking, an accommodation is any change in the work environment or in the way things are customarily done that will enable individuals with disabilities to enjoy equal employment opportunities.

There are three categories of reasonable accommodations, as follows:

- ⚙️ Modifications/adjustments to a job application process that enables a qualified applicant with a disability to be considered for the position
- ⚙️ Modifications/adjustments to the work environment, or to the manner/circumstances under which the position held or desired is customarily performed, that enables a qualified individual with a disability to perform the essential functions of that position
- ⚙️ Modifications/adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment that are enjoyed by other employees without disabilities



Individuals with disabilities may request a reasonable accommodation at any time during the application, interview, or employment process. Upon an individual's request for an accommodation, the EEOC encourages for the employer and individual/employee to utilize an interactive process. This process simply consists of employers and individuals communicating and working together. Remember, the ADA or EEOC does not require that the interactive process be used; however, if interested in using this model listed below are the steps to the process.

- ⚙️ Recognizing an Accommodation Request (begins when there is an accommodation request from an employee with a disability).
- ⚙️ Gathering Information (upon receiving the accommodation request, it is imperative to gather necessary information in order to process the request).
- ⚙️ Exploring Accommodation Options (upon identifying the employee's limitation(s) that's causing a barrier, the employer can begin with exploring accommodation options).
- ⚙️ Choosing an Accommodation (once accommodation options have been explored, the employer must select an accommodation to implement).
- ⚙️ Implementing the Accommodation (once the accommodation has been selected, it will then need to be implemented).
- ⚙️ Monitoring the Accommodation (it is important to monitor the accommodation periodically to ensure effectiveness of it).



There are several forms of reasonable accommodation ideas and the Job Accommodation Network provides excellent information on this, which ideas can be researched by disability or limitation.

To explore this further select this link:
<http://askjan.org/links/atoz.htm>

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The Job Accommodation Network (JAN) offers free, confidential assistance on workplace accommodations and disability employment issues and can be contacted by phone at: 866-526-7234. Also, to access JAN's website:
<http://askjan.org/>

TAX INCENTIVES/CREDITS

Besides employing loyal, dependable, and motivated employees, hiring people with disabilities may bring valuable tax incentives to your business. Overall, there are three tax credits or incentives that are available when hiring or retaining employees with disabilities.

1 WORK OPPORTUNITY TAX CREDIT (WOTC)

- a. This federal income tax credit is available to businesses who hire certain targeted groups who consistently experience higher unemployment due to a variety of employment-related barriers. As a result, businesses may be eligible to receive a percentage of an employee's wages during their first one to two years of employment.
- b. The SD Department of Labor and Regulation agency oversees this particular program and complete details can be retrieved from the following link:
http://www.dlr.sd.gov/workforce_services/wotc/default.aspx

2 SMALL BUSINESS TAX CREDIT

- a. This particular credit is a non-refundable credit for small businesses that incur expenses for the purpose of providing access to people with disabilities. An eligible small business is one that earned \$1 million or less or had no more than 30 full-time employees in the previous year.
- b. To view further information on this particular credit: <https://www.irs.gov/businesses/small-businesses-self-employed/tax-benefits-for-businesses-who-have-employees-with-disabilities>
- c. Or, consultation can take place with your business's tax accountant.

TAX INCENTIVES/CREDITS (CONTINUED)

3 THE ARCHITECTURAL/BARRIER TRANSPORTATION DEDUCTION

- a. This particular deduction pertains to businesses who may take annual deductions for expenses related to removing physical, structural, and transportation barriers for people with disabilities.
- b. To view further information on this particular credit:
<https://www.irs.gov/businesses/small-businesses-self-employed/tax-benefits-for-businesses-who-have-employees-with-disabilities>
- c. Or, consultation can take place with your business's tax accountant.

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ADDITIONAL IN-STATE AND NATIONAL RESOURCES

SD DIVISION OF DEVELOPMENTAL DISABILITIES - program to ensure that people with developmental disabilities have equal opportunities and receive the services and supports they need to live and work in SD communities. <http://dhs.sd.gov/dd/>

DISABILITY ETIQUETTE - source containing example and helpful tips/suggestions when interacting with people with disabilities, which are broken down into various disability categories. <https://www.dol.gov/odep/pubs/fact/effectiveinteraction.htm>

SECTION 503 REGULATIONS (Department of Labor and Regulation's Office of Federal Contract Compliance Programs/OFCCP) - provides guidance, consultation, and technical support on affirmative action and equal employment opportunities for people and veterans with disabilities who are contractors or subcontractors with the federal government.

<http://www.dol.gov/ofccp/>

ASSISTIVE TECHNOLOGY SERVICES AND DEVICES (DakotaLink) – provides assistive technology evaluations, services, and equipment throughout SD.

<https://www.dakotalink.net/>

ADDITIONAL IN-STATE AND NATIONAL RESOURCES

(CONTINUED)

Business Resource Network (BRN) – works to enhance and improve the employment climate in the Sioux Falls area by promoting the advantages of hiring persons with disabilities, educating the employers and the public, and by fostering an environment that will assist businesses in improving their production and efficiency. www.sfbrn.org

Workforce Diversity Network of the Black Hills (WDBNH) - is a team of business and human resource individuals serving as a link between employers and individuals with disabilities who have the desire and qualifications to work. www.wdbnh.org



Is an effort to increase awareness about the benefits of hiring people with disabilities through the Division of Rehabilitation Services. Please check out the website at: www.abilityforhire.com. Also, join our Facebook page by liking the Ability for Hire page.

THIS RESOURCE GUIDE
WAS COMPLETED IN
PARTNERSHIP WITH:

