Simply Educating Clients About the Americans with Disabilities Act

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Overview

• ADA Basics – a brief review
• Simply the ADA Packet – focus on employment
  • ADA Overview
  • Requesting and Negotiating A Reasonable Accommodation
  • Disclosure Decision Worksheet
  • Making Choices, Getting Ready
• Different Ways to Use Your Tools
• Resources
Why Talk About the ADA?

• Civil Rights
• Self-Advocacy
• Employment
The ADA

Definition of Disability
ADA: Definition of Disability

Based on the 1973 Rehabilitation Act

1. An individual who has a physical or mental impairment that substantially limits one or more major life activities

2. An individual who has a record of such an impairment

3. An individual who is regarded as having such an impairment
Major Life Activities

• Activities such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working

• Operations of major bodily functions, including functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions
Title I

Employment
Title I: Coverage

- State and local government agencies and private employers
  - 15 or more employees
- Employment agencies
- Labor unions
  - Hiring hall or at least 15 members
- Joint labor management committees
  - Apprenticeship and job training programs
Qualified Individual with a Disability

A qualified individual with a disability “satisfies the requisite skill, experience, education and other job-related requirements of the employment position...and, with or without reasonable accommodation, can perform the essential functions”
Essential Job Functions

• What makes a job function essential?
  • Job exists to perform the function
  • Limited number of workers to perform the function
  • Level or type of expertise or skill needed
Affirmative Action

• Employers may invite applicants to self-identify for purposes of affirmative action, as long as it is clearly stated ...
  • Response is voluntary; no adverse action will result from declining to respond
  • Information will only be used for affirmative action (i.e., to benefit applicants with disabilities)
  • Information will be kept confidential
    • Forms or information recorded must be kept separate from other application materials
Reasonable Accommodation

Title I: Employment
Reasonable Accommodation

• What is it?
• Who is entitled to it?
• What triggers an employer’s obligation to consider it?
• How does an employer decide what to do?
What is Reasonable Accommodation

• A modification, adjustment, allowance, or provision that facilitates an equal employment opportunity for a worker with a disability
  • Applying for a job
  • Performing essential job duties
  • Accessing benefits and privileges of the job
Reasonable Accommodation: Examples

• Schedule adjustments
• Equipment, furnishings, or assistive technologies
• Making facilities accessible
• Exchanging marginal job tasks
Reasonable Accommodation: More Examples

• Adjustments in communication or supervisory methods
• Adjustments in the work environment (e.g., lighting, temperature, air quality, noise)
• Changing location, including working from home
• Time off for disability-related needs
• Reassignment to vacant job (usually last resort; only available for employees, not applicants)
Reasonable Accommodation: What is it NOT?

• Eliminating essential functions of the job
• Lowering productions standards
• Providing personal items (items that an employee uses on and/or off the job)
• Indefinite leave
• Allowing direct threat
• Undue hardship
Undue Hardship

Means “significant difficulty or expense in, or resulting from, the provision of the accommodation,” including “any accommodation that would be unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation” of the covered entity.
Who is Entitled to Reasonable Accommodation?

• A qualified applicant or employee (full-or part-time, seasonal, temporary, etc.) with...
  • A disability
  • A record/history of disability

• Individuals who are regarded as having a disability are not entitled to reasonable accommodation
How Does it Work?

Applicant/Employee

INTERACT

Employer
The Interactive Process

Applicant/Employee
• Make request
• Provide medical documentation if needed
• If possible, offer accommodation ideas and options
• Implement
• Revisit if necessary

Employer
• Review request
• Request medical documentation if needed
• Determine disability
• Explore/investigate options
• Decide on option(s)
• Implement
• Monitor
Individual Solutions

Reasonable accommodation depends on the nature of ...

• The job
  • Application process
  • Essential functions
  • Benefits and privileges

• The specific limitations and needs of the individual applicant or employee
Let’s Get this Process Started

Individual must request accommodation

• Formal request or specific language is not necessary, but the individual must let employer know he needs something from the employer because of a disability, health condition, etc.
Medical Documentation

Employer can require documentation from a qualified professional to verify **disability** and **need for accommodation**, unless both things are obvious

- Including during the pre-offer stage, if an applicant requests accommodation for the job application process, pre-offer tests, etc.
Sometimes it’s Simple

• Many requests for accommodations come from workers with known or obvious disabilities, who ask for simple, common-sense things, and such requests are often quickly and easily implemented

• Some situations are more complex...
Interact! Communicate and Collaborate

Employee

Rehabilitation Professional

Employer/Decision Maker

Accessibility Consultant

Assistive Tech. Specialist

Workplace Manager
Title II and III: Coverage

Title II covers all programs, services, and activities of state and local government agencies, also called “public entities”

Title III covers private businesses

• Public accommodations
  • Private businesses that operate places that serve the general public
• Commercial facilities
ADA Overview

• Provides basic overview of all the titles of the ADA
• Includes resources for more information
• Can be a general resource for anyone
Requesting and Negotiating a Reasonable Accommodation

1) How
2) Who
3) Why
4) Follow-up
5) Monitor
Making Choices, Getting Ready

• Self-rating checklist format
• To prepare a client for a disability-related conversation with an employer or potential employer
• Addresses legal, practical, and human aspects of the conversation
Disclosure Decision Worksheet

• Tool for working through disclosure options
• Flow chart format to cover all bases
• Can be used multiple times
Ways to Use the Tools

Pair up with the person sitting next to you and discuss different ways you can use these tools
How Can We Help Clients?

• Start ADA education early, keep it on the radar throughout transition planning and preparation
• Practice disclosing and requesting an accommodation
• Revisit and discuss missteps
How Can We Help Employers?

• Encourage them to be proactive
  • Establish and communicate policies, procedures, and requirements
    • Internally and to the public
  • Train and support employees
    • Identify essential requirements of activities, tests, jobs, etc. and purpose of methods
    • Collaborate while respecting confidentiality
    • Create inclusive spaces, materials, and activities
Accommodations should assure equal opportunities, not guarantee success
Resources

Information and Organizations
IRS Tax Credit

• Disabled Access Tax Credit for small businesses (gross receipts of $1 million or less in previous tax year OR 30 or fewer full-time employees)
  • Credit for 50% of eligible access expenditures; maximum credit of $5,000
  • Examples of eligible expenses: barrier removal, hiring qualified interpreters or readers, producing accessible materials (e.g. large print)
IRS Tax Deduction

Businesses of any size can deduct up to $15,000 for costs of removing architectural or transportation barriers in existing facilities or vehicles.
U.S. Department of Justice (DOJ)

Disability Rights Section ADA Home page – www.ada.gov
U.S. Equal Employment Opportunity Commission (EEOC)

- EEOC (www.eeoc.gov)
Job Accommodation Network (JAN)

JAN (www.askjan.org)
State Assistive Technology (AT) Programs

Rehabilitation Engineering and Assistive Technology Society of North America (RESNA) list of state programs – www.resnaprojects.org/allcontacts/statewidecontacts.html
ADA National Network

Ten regional centers
- www.ADAta.org
- 1-800-949-4232
Mid-Atlantic ADA Center

- Information
- Guidance
- Training
- Materials
- Newsletter and E-Bulletin
- Speak to an ADA Information Specialist
  Toll-free: 800-949-4232
- Website: www.ADAinfo.org
Resource Networks

- Learn, share, and connect through the Mid-Atlantic ADA Center’s networks
  - Leadership Network for ADA trainers
  - Community Partners share information
  - Title II Network for state and local government professionals
Social Media

• Facebook – www.facebook.com/midatlanticadacenter/
• Twitter – https://twitter.com/adainfo
• Pinterest – www.pinterest.com/midatlanticadac/
• LinkedIn – https://www.linkedin.com/company/mid-atlantic-ada-center
• YouTube – https://www.youtube.com/channel/UCDKDVmeTWktIDbplAXoHIltQ
Questions?