

Webinar Series – February 2026

# **Americans with Disabilities Act (ADA) and Employment**

Hosted by:  
Wisconsin ADA Coordinators Association



# Disclaimer



This webinar hosted by the Wisconsin ADA Coordinators Association is not meant to be legal advice.

Although we may refer to the Americans with Disabilities Act (ADA) or similar state and local laws, this presentation is provided as an educational resource.

Our goal is to give public entities a framework for access and providing accommodations or modifications. We encourage attendees to seek guidance about their obligations from their own legal counsel.

# Americans with Disabilities Act (ADA) & Employment

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# ADA Title I (in a nutshell)

Prohibits private employers (15 or more employees), State and local governments, employment agencies and labor unions from discriminating against **qualified individuals with disabilities** in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment.



# Definition of “individual with a disability”

A person with:

- **A physical or mental impairment** that substantially limits one or more major life activities,
- **A history of a disability:** A record of a physical or mental impairment that substantially limited a major life activity, or
- **Regarded as having such an impairment:** When action is taken against an individual because of a perceived impairment

# Major Life Activities

- self-care tasks
- performing manual tasks
- seeing
- hearing
- eating
- sleeping
- walking
- standing
- sitting
- reaching
- lifting
- bending
- speaking
- breathing
- learning
- reading
- concentrating
- thinking
- writing
- communicating
- interacting with others
- working
- operation of major bodily functions (organ and body systems)
- and more

# Substantially Limits

- Consideration is given to condition, manner, or duration:
  - Effort, time, and pain required to do a task
  - How long a task can be performed
  - Adverse impact on the person
  - Side effects of medical treatment
- Some limitations are “episodic” and can change over time, be better, and then return.
- Includes limitations that are addressed or supported with “mitigating measures” such as medications, hearing aids, assistive technology, and more (does not include regular eyeglasses)

# Broad Coverage

The primary object of attention in cases brought under the ADA should be **whether entities covered under the ADA have complied with their obligations and whether discrimination has occurred, not whether the individual meets the definition of “disability.”**

- Should not demand extensive analysis.



# Qualified Individual with a Disability

- Meets the essential eligibility requirements of the position (i.e., skills, training, and experience)
- Can perform essential job duties with or without reasonable accommodations.



# Essential Functions of a Job

Basic and necessary tasks that someone performs as part of their job.

- Employers should know this **before** they hire.
- **All employees** should understand what the essential functions of their job are.



# Essential or Non-Essential?

Things to consider:

1. Part of the job description?
2. Does the position exist to perform that task?
3. Can the task be reassigned or redistributed among other employees?
4. What expertise or skills are required for the task?
5. What is the actual work experience of present or past employees in the job, and how much time is spent on the task?
6. What are the consequences of not requiring that an employee perform a task?
7. Is this task covered in the terms of a collective bargaining agreement?

# Analysis: Qualified Individual with a Disability

1. Covered Employee

Does the person have a disability?

2. Essential Functions

What are the essential functions of the job?

3. Qualified Individual

Can they do the job with or without accommodations?

# Reasonable Accommodations

# Reasonable Accommodations

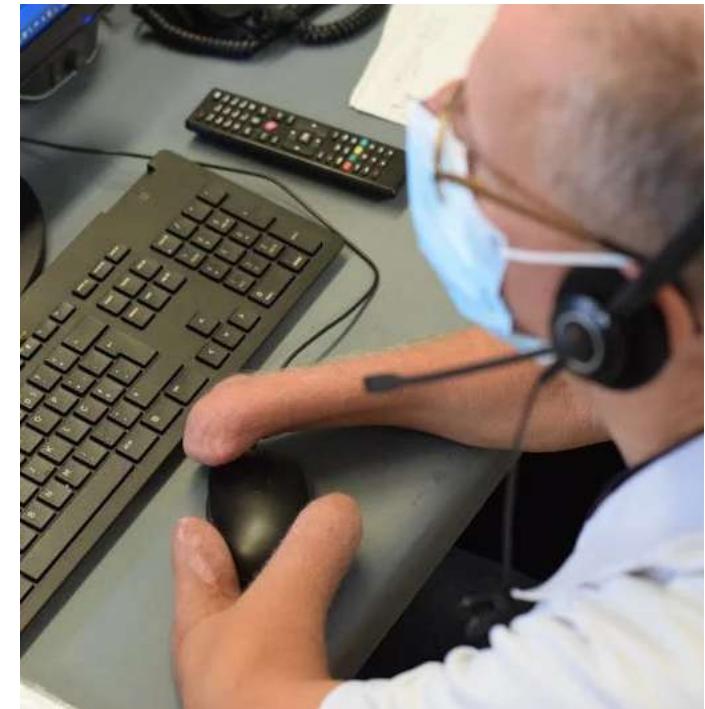
A reasonable accommodation makes it possible for employees with disabilities to do essential job functions and enjoy the same benefits as nondisabled employees.

These include:

- A different way of doing a task
- Tools, equipment and auxiliary aids and services
- Removing barriers in the environment
- Change to <sup>DC1</sup>when or where work is done
- Modifications to rules, policies, or practices

# Accommodation Examples

- Flexible work schedule
- Structured work schedule
- Remote work
- Written instructions
- Oral instructions
- Shared tasks
- Additional breaks
- Preferred modes of communication
- Job-coaching
- Natural supports
- Proofreaders
- Calendars
- Maps
- Apps
- Visual Aids
- Architectural adjustments
- Prompting
- To-do lists
- Computer or tablet
- Quiet space
- Screen-readers
- Alternative formats
- Equipment & devices
- Dimmer switches
- Mini fridge
- *And more!*



# Benefits and Privileges

The ADA requires employers to provide reasonable accommodations so that employees with disabilities can enjoy the "benefits and privileges of employment" equal to those enjoyed by similarly-situated employees without disabilities.

For example:

- Training
- Employee assistance programs (EAP's)
- Credit unions
- Cafeterias
- Lounges
- Gymnasiums
- Auditoriums
- Transportation
- Morale activities
- Parties or other social functions

# Request for Reasonable Accommodations

- **No magic words** - Let the employer know that they need an adjustment or change at work for a reason related to a health or medical condition.
- May be made by any mode of communication.
- Can be made by a family member, friend, health professional, or other representative.
- Can be made at any time during the application process or during employment.

# Interactive Process

A collaborative, informal, employee-centered process.

Employer considers:

1. Covered Employee

Does the person have a disability covered by ADA?

2. Employee needs

What are effective accommodations?

3. Business Needs

Would providing the accommodation impose an undue hardship?

## Timelines

While the ADA does not impose a timeline on responding to accommodation requests, EECO guidance states:

*“An employer should respond expeditiously to a request for reasonable accommodation. If the employer and the individual with a disability need to engage in an interactive process, this too should proceed as quickly as possible.”*

# Informing the Process

Employers may use:

1. Information provided by the individual with a disability
2. A wealth of public and private resources

When all other information is insufficient:

1. Reasonable and specific documentation from a qualified professional
2. Referral to an appropriate health professional

# Qualified Professional

Someone who is knowledgeable about the individual and their disability-related needs.

- Doctor
- Psychologist
- Therapist
- Social worker
- Vocational counselor
- Occupational therapist
- Other professional



## Keep in Mind...

- An employer is not excused from the requirements of the ADA because of a lack of knowledge or technical expertise.
- An employer does not have to provide the exact accommodation the person with a disability asks for if there is another effective option.
- A person with a disability is not required to accept the accommodation offered if they could perform the job without it.



## Accommodation Plan

1. Document agreements between the employer and the employee.
2. Inform those who will be responsible for implementing the plan (other information is confidential).
3. Monitor, revisit, and revise as needed.

**Once the accommodations are agreed upon, the employee is entitled to receive them.**

# High Return on Investment

- Most employers report no cost or low cost for accommodating employees with disabilities
- 56% of accommodations cost ***absolutely nothing*** to implement
- 39% of accommodations had a one-time cost (median of \$500)

- Job Accommodations Network 2020 Employer Survey



# Defenses

- Fundamental alteration
- Undue hardship or burden
- Direct threat to health and safety



# Fundamental Alteration

An accommodation that would change the

- Essential functions of the job.
- Structure and functions of the workforce.
- Nature of the goods, services, facilities, and benefits.



# Undue Hardship or Burden

An employer doesn't have to provide an accommodation if the accommodation would be too costly or too difficult for the employer to implement.

- Factors:
  - Nature and cost of accommodation
  - How many people work there?
  - Overall financial resources (budget/money available)
  - How would the accommodation impact operations?

If an accommodation will cause undue hardship, but a second type of reasonable accommodation will be **effective** and will not cause an undue hardship, the employer must provide the second accommodation.

# Direct Threat

- An employer can't provide an accommodation that would be a “significant risk of substantial harm” to the employee or others.
- Employer must do “direct threat” assessment based on valid medical and objective evidence. It cannot be based on fear or speculation.
- Factors to consider include:
  - How could someone be harmed?
  - How severely?
  - How likely is the potential harm?
  - How soon could it happen?
  - How long is the risk?
  - Can the risk be mitigated with other accommodations?

# Employment Process

# Pre-Employment

- Applicants with disabilities are not required to disclose a disability unless they need an accommodation.
- Employers may not ask disability-related questions and may not conduct medical examinations
- Employers may not deny the opportunity to apply, or a position based solely based on disability.



# Qualifications, Standards and Testing

Employers may not:

- Use standards or criteria that screen-out or limit opportunities.
- Use testing that impairs abilities, rather than reflecting the skills of applicants and employees with disabilities.
- Require tests that are not job-related, consistent with business necessity, and required of all applicants for the job position.
- Require a medical exam

# After a Job Offer

- **Conditional job offer:** The employer may ask disability-related questions and require medical examinations if they are job-related, consistent with business necessity, and required of all entering employees in that job category.
- **Formal offer:** An employer may not withdraw based on disability or because the employee needs accommodations.

# Prohibited Treatment of Employees

# Prohibited Treatment

- Discrimination:
  - Adverse action against an employee based on their disability or association with a person with a disability.
  - Policies or actions that have the effect of adversely impacting employees with disabilities or groups of employees with disabilities.
- Harassment of an applicant or employee because of an actual or perceived disability or for association with an individual with a disability.
- Segregation, including isolation and excessive monitoring

# Best Practices

# Best Practices

- Adopt a social model of disability.
- Include disability-affirming language in job postings and descriptions.
- Tell all applicants what the hiring process, so they will know if they need a reasonable accommodation.
- Understand interviews go both ways.
- Educate yourself – It's not your employee's job to teach you!
- Educate all employees on disability history, culture, and identity.
- Support employee resource and affinity groups.
- Involve Disabled employees in policy decisions.

# Best Practices - Accommodations

- Develop a workplace culture that celebrates diversity and makes it safe to disclose.
- Acknowledge your employee as the expert when it comes to their access needs.
- Use preferred language—If you don't know ASK.
- Respond to accommodation requests in a timely manner.
- Put accommodation plans in writing.

# Resources

- Part 29 of the Code of Federal Regulations, Part 1630 et seq.
- Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the ADA
- Questions and Answers on the Final Rule Implementing the ADA Amendments Act of 2008 (EEOC-NVTA-2011-1)
- Wis. Stat. §§ Chapter 111.31 - 111.395
- Department of Workforce Development - Disability Overview
- Job Accommodations Network (JAN)

# Questions?

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