

The Americans with Disabilities Act



A Primer for Programs Serving Survivors

Presenter

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Learning Objective

1. Gain a basic understanding of the 5 Titles of the Americans with Disabilities Act
2. Learn about recent changes to the Americans with Disabilities Act
3. Learn about your responsibilities as an employer and a service provider
4. Learn where you can get additional information

▶ Polling Question #1

How would you rate yourself in your knowledge of the ADA?

- a. I know nothing about the ADA
- b. I know a little about the ADA
- c. I have a working knowledge of the ADA
- d. I am an expert in the ADA

What is the Americans with Disabilities Act (ADA)?

- Signed into law in 1990, the Americans with Disabilities Act (ADA) provided civil rights protections to individuals with disabilities
- The ADA prohibits discrimination on the basis of disability in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications.

Who is Covered by the ADA

ADA Definition of Disability

The term 'disability' means, with respect to an individual:

- a. a physical or mental impairment that substantially limits one or more major life activities of such individual;
- b. a record of such an impairment; or
- c. being regarded as having such an impairment.

A Closer Look at the Definition

- a. a physical or mental impairment that substantially limits one or more major life activities of such individual;

Impairment is defined as:

- a. A physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems or
- b. A mental or psychological disorder, such as intellectual disability, emotional or mental illness, and learning disabilities

A Closer Look at the Definition

- a. a physical or mental impairment that substantially limits one or more major life activities of such individual;

Major Life Activities is defined as:

- Caring for yourself
- Learning and Working
- Walking, Seeing and Hearing
- Speaking and Breathing and
- Maintaining social relationships, among other things.
- The operation of a major bodily function***

Polling Question #2

Who has a disability under the ADA?

A) Gloria? She has schizophrenia and had been living in a group home and working until she stopped taking her meds and is now homeless.

B) Mary? She had cancer six years ago and has been in remission for the past 5 years

C) Tom? He has had diabetes since he was a kid but it is controlled through his regular use of his medication and a proper diet.

D) Jenny? A successful lawyer who lost her leg 10 years ago, she uses a prosthetic and ran the NY Marathon last year.

A Closer Look at the Definition

- a. a physical or mental impairment that substantially limits one or more major life activities* of such individual;

Substantially limits, while not defined in the ADA or the Amendments Act does have 9 Rules of Construction including these 3:

- Episodic or in remission, limitations will be considered as if active **
- Only one major life activity needs to be substantially limited
- Shall be made without regard to the ameliorative effects of mitigating measures

A Closer Look at the Definition

b. a record of such an impairment; or

An individual has a record of a disability if the individual has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

A Closer Look at the Definition

c. being regarded as having such an impairment.

“Regarded As” is defined as:

An individual who has been subjected to an action prohibited under this Act because of an actual perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

Regarded as does not apply to impairments that are transitory and minor (an actual or expected duration of 6 months or less).

Titles of the ADA

ADA Title I: Employment

ADA Title II: State and Local Government

ADA Title III: Public Accommodations

ADA Title IV: Telecommunications Relay Services

ADA Title V: Miscellaneous Provisions

ADA Title I: Employment

Title I applies to employers with 15 or more employees

Under Title I, employers are expected to hire, fire, and promote the most qualified individual, regardless of his/her disability.

It requires employers to make reasonable accommodations, unless the accommodation would impose an undue hardship on the employer.

Title I prohibits employers from giving pre-employment medical exams, using employment tests or other selection criteria. It does permit employers to inquire about the applicant or employee's ability to perform the essential functions of the job.

▶ Polling Question #3

Because of space considerations at the shelter several of the filing cabinets containing old seldom used files have been moved to the basement of your building which is only accessible by stairs. Beth works for you as an administrative aide, one of the essential functions of her job is filing. Beth has arthritis and is unable to walk up and down stairs, Beth asks you to provide someone to retrieve or return files to the basement, when those are needed. Is this a reasonable accommodation?

- YES
- NO

Definitions of Key Terms in Title I

Reasonable Accommodations are any changes that enables a person with a disability to have equal employment opportunities.

Undue Hardship means “significant difficulty or expense”.

Essential Functions are the fundamental job duties of the position it does not include the *marginal* functions of the position.

▶ Polling Question #4

How would you define the agency you work for?

- a. Private/non-profit agency
- b. Department under the local/state or federal government

ADA Title II: State & Local Government

Title II prohibits state and local government from discriminating against people with disabilities in their programs, services and activities.

To allow equal opportunity for individuals with disabilities, public entities must:

- Make reasonable modifications to their policies, practices, and procedures
- Provide auxiliary aids and services
- Provide integrated program access through nonstructural and architectural modifications

ADA Title II: Public Accommodations

Privately owned businesses, including for-profit and nonprofit establishments such as domestic violence and sexual assault programs are required to follow Title III guidelines.

Title III entities must:

- Provide goods and services in the most integrated setting possible
- Eliminate any eligibility requirements
- Make reasonable modifications to their policies, practices, and procedures
- Provide auxiliary aids, to ensure effective communication

ADA Title III: Public Accommodations (Cont.)

Title III requires that public accommodations remove all architectural and structural communication barriers in existing facilities where readily achievable.

The 2010 ADA Standards for Accessible Design provides the guidelines for new construction or alterations. These Standards include the design requirements for building and site elements like:

- Parking
- Accessible routes
- Ramps, and
Elevators

Definitions of Key Terms in Title II and Title III

Reasonable Modifications

Public entities must reasonably modify their rules, policies, and procedures to avoid discriminating against people with disabilities.

Fundamentally Alter

A fundamental alteration is a change to such a degree that the original program, service, or activity is no longer the same.

Definitions of Key Terms in Title II and Title III (cont.)

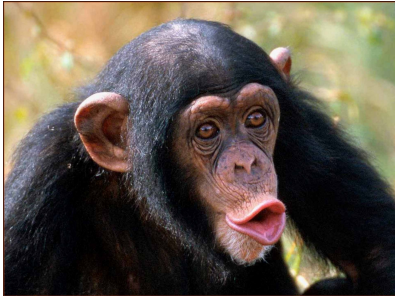
Auxiliary Aids and Services

Includes:

- Qualified interpreters or other methods to make aurally delivered materials available to individuals with hearing impairments;
- Qualified readers, taped texts, or other methods of making visually delivered materials available to individuals with visual impairments;
- Acquisition or modification of equipment or devices; and
- Other similar services and actions

Polling Question #5

Which of these could be a service animal under the ADA?



- A Dog
- B Monkey and Dog
- C Dog and Horse
- D All of the above

Definitions of Key Terms in Title II and Title III (cont.)

Under the ADAAA 2008:

Service Animals are defined as *dogs* that has been individually trained to do work or perform tasks for the benefit of an individual with a disability.

Polling Question #6

Which of these could be considered a mobility device under the ADA?



Wheelchair



Motorcycle



Scooter



Segway

- A Wheelchair and Scooter
- B Motorcycle and Segway
- C Wheelchair, Scooter, and Segway
- D All of the above

Definitions of Key Terms in Title II and Title III (cont.)

Wheelchairs and Other Power-Driven Mobility Devices:

Wheelchairs (and other devices designed for use by people with mobility impairments) must be permitted in all areas open to pedestrian use.

Other power-driven mobility devices, which are not designed specifically for individuals with mobility impairments, must be permitted to be used unless such use would fundamentally alter its programs, services, or activities, create a direct threat, or create a safety hazard.

Title IV: Telecommunications

Title IV requires telephone companies to provide relay services that allow individuals with hearing impairments to communicate using a TTY or other non-voice device.

Relay services may be accessed by dialing 7-1-1.

Title IV also requires that all television public service announcements include closed captioning.

Title V: Miscellaneous Provisions

Title V includes a variety of things, most relevant to all of you may be the sections on:

- Retaliation and coercion, and
- The clarifications around illegal drug use and sexual orientation.

Where to find additional information

There are a number of places you can go to get additional information on the ADA. The first being the Department of Justice's website <http://www.ada.gov/>

The ADA Information Line: (800) 514-0301 (voice) or (800) 514-0383 (TTY)

Job Accommodation Network (JAN) <http://askjan.org/>

There are also 10 Regional ADA Centers that comprise the ADA National Network which provides information, guidance, and training on the ADA.

Where to find additional information

New England ADA Center

Serves Region 1 (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont)

Institute for Human Centered Design

Phone: (617) 695-0085 (V/TTY)

Website: www.NewEnglandADA.org

Northeast ADA Center

Serves Region 2 (New Jersey, New York, Puerto Rico and the U.S. Virgin Islands)

Phone: (607) 225-6686 (V/TTY)

Website: www.dbtacnortheast.org

Where to find additional information

Mid-Atlantic ADA Center

Serves Region 3 (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia and West Virginia)

Phone: (301) 217-0124 (V/TTY)

Website: www.adainfo.org

Southeast ADA Center

Serves Region 4 (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee)

Phone: (404) 541-9001 (V/TTY)

Website: www.sedbtac.org

Where to find additional information

Great Lakes ADA Center

Serves Region 5 (Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin)

Phone: (312) 413-1407 (V/TTY)

Website: www.adagreatlakes.org

Southwest ADA Center

Serves Region 6 (Arkansas, Louisiana, New Mexico, Oklahoma and Texas)

Phone: (713) 520-0232 (V/TTY)

Website: www.dlrp.org

Where to find additional information

Great Plains ADA Center

Serves Region 7 (Iowa, Kansas, Missouri and Nebraska)

Phone: (573) 882-3600 (V/TTY)

Website: www.adaproject.org

Rocky Mountain ADA Center

Serves Region 8 (Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming)

Phone (719) 444-0268 (V/TTY)

Website: www.adainformation.org

Where to find additional information

Pacific ADA Center

Serves Region 9 (Arizona, California, Hawaii, Nevada and the Pacific Basin)

Phone: (510) 285-5600 (V/TTY)

Website: www.adapacific.org

Northwest ADA Center

Serves Region 10 (Alaska, Idaho, Oregon and Washington)

Phone (425) 248-2480 (V)

Website: www.dbtacnorthwest.org

Questions

Does anyone have
any questions before
we end this call?