



ALASKA SHRM STATE COUNCIL



EMPLOYMENT & THE AMERICANS WITH DISABILITIES ACT (ADA)

PRESENTED BY
JULIE BRANNON

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Employment & the Americans with Disabilities Act (ADA)



Northwest  Center

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Training objectives

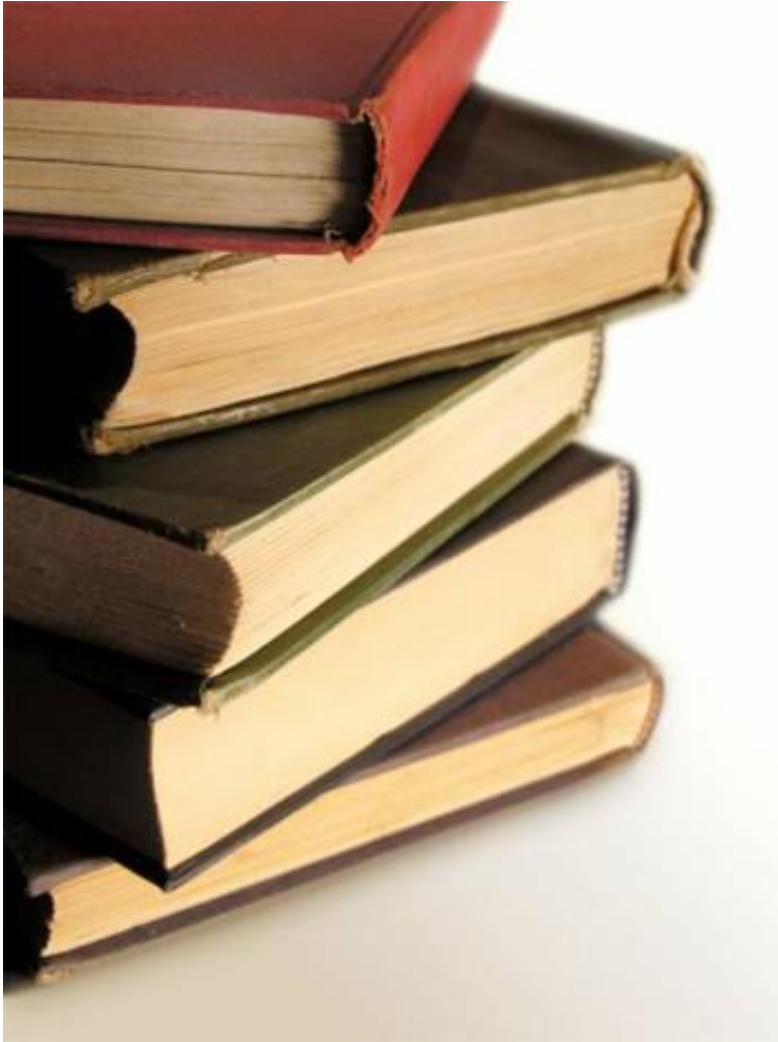
1. Define disability per the ADA
2. Review the employment title of the ADA, including covered entities, rights of the individual, reasonable accommodation, and limitations on accommodation
3. Explain service animals as they relate to the employment title of the ADA
4. Identify resources for further information and guidance on employment and the ADA

Disclaimer

The contents of this presentation were developed under a grant from the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR grant number 90DPAD0002). NIDILRR is a Center within the Administration for Community Living (ACL), Department of Health and Human Services (HHS). The contents of this presentation do not necessarily represent the policy of NIDILRR, ACL, or HHS, and you should not assume endorsement by the Federal Government.



Five Titles of the ADA



1. Employment

2. Public Services

3. Public Accommodation

4. Telecommunication

5. Miscellaneous

Who is protected?

Column A - someone who...

- has a knee injury
- has a hard time getting up in the morning
- is using drugs illegally

Column B - someone who...

- has a history of a mental health condition
- is married to someone who has paraplegia
- is in an addiction treatment program

ADA's 3-prong definition of disability

To be protected by the ADA, a person must meet at least 1 prong:

1. Has a physical or mental impairment that substantially limits one or more major life activities
2. Has a record of such impairment
3. Is regarded as having such an impairment

The individual's rights under Title I of the ADA

- Request a reasonable accommodation
- Protection from discrimination
- Freedom from harassment
- Protection from retaliation



What employers are obligated and responsible under ADA?

- Federal law: employers with 15 or more employees
- Alaska's Anti-Discrimination Statute 18.80.220: employers with 1 or more employees
- State, county, and city governments (no matter their size) are obligated
- Those exempt are:
 - Tribal sovereign immunity: tribal nations exempt from ADA Title I
 - Federal government agencies
 - Religious organizations – it depends

What are examples of reasonable accommodation?

- A. Providing a sit-to-stand desk?
- B. Providing an accessible parking space?
- C. Providing a driver for work-related travel?
- D. Allowing the employee more breaks during the work shift?



Definition of reasonable accommodation

any change or adjustment to a job, the work environment, or the way things usually are done that would allow a qualified individual with a disability to perform the essential functions of the job



What are essential job functions?

Basic job duties that an employee must be able to perform, with or without reasonable accommodation



Can the individual ask for a reasonable accommodation...

as they are trying to complete the job application?

as they are being scheduled for a job interview?

once they've accepted a position?

after several years of employment?

Title I applies to all aspects of employment

- job advertisements
- job application procedures
- hiring
- firing
- training
- pay
- promotion
- benefits
- leave



Requesting a reasonable accommodation

- Verbally or in writing
- Don't have to use the words "reasonable accommodation"
- Tie the request to some type of medical need
- Don't have to provide full medical record



Identifying a reasonable accommodation request

- a) I need a 30-minute grace period to start my shift because I take paratransit.
- b) I want to bring my dog into the office.
- c) I need the switches labeled because I cannot tell the difference between the color red and the color green.
- d) My walker doesn't fit in the restroom.
- e) None of the above meet the criteria for a reasonable accommodation.

Interactive Process

Timely meetings between the employer and the employee to determine the appropriate accommodation



True or false? Reassignment

If, during the interactive process, the employer determines that the employee cannot be accommodated in their current position, the employer must consider reassigning the employee to another position, starting with promotion or creation of a new position.



True or false? Temporary accommodations

According to the ADA, it is allowable for an employer to implement a temporary accommodation for a worker with a disability.



True or false? New supervisor

If an employee with a disability asks for a new supervisor as their ADA reasonable accommodation request, the employer must grant this request unless doing so would result in undue burden.



Employers don't have to:

- Take on undue hardship
- Fundamentally alter their business
- Risk a direct threat
- Provide personal-use items
- Lower productivity standards
- Change or eliminate essential job functions
- Promote a person as an accommodation



True or false? Service animals

Title I of the ADA defines service animals the same way that Title II and Title III of the ADA define service animals.



ADA Title I & Service Animals

- No definition of service animal in Title 1!
- Treat a job applicant's or employee's request to bring an animal into the workplace as you would any ADA Title I reasonable accommodation request



Resources for more information on Title I

Free guidance:

- [EEOC](#), EEOC's Attorney-of-the-Day 202-921-2657
- [Alaska State Commission on Human Rights](#)
- [Job Accommodation Network \(JAN\)](#)

Free online training:

- [ADA Title I: Employment Requirements by the New England ADA Center](#)
- [Archived ADA Legal Webinar Series \(Employer Duties, Reasonable Accommodation\)](#)
- [Archived ADA Audio Conference Series \(Ask the EEOC\)](#)

References

[Alaska Human Rights Commission Publications & Reports](#)

[Job Applicants and the Americans with Disabilities Act. The US Equal Employment Opportunity Commission](#)

[Employee's Practical Guide to Requesting and Negotiating Reasonable Accommodation Under the ADA, JAN](#)

[Employer's Practical Guide to Reasonable Accommodation Under the ADA, JAN](#)

[Service Animals as an Employment Accommodation, Northwest ADA Center](#)

References, continued

[Technical Assistance Manual for Title I of the ADA, JAN](#)

[Interactive Process, JAN](#)

[Enforcement Guide: Reasonable Accommodation and Undue Hardship Under the ADA, EEOC](#)

[Federal Disability Rights Laws as Applied to Native American Tribes, Southwest ADA Center](#)

[What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws](#)

Free ADA information and Technical Assistance



800-949-4232 (711 for telephone relay service)



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