Improving Access

ADA at UA
For All Employees

A Legal Compliance Online Training Module
Developed by Training & Development Services in collaboration with the Human Resources ADA Office. Reviewed and approved by the Office of General Counsel.

Updated: January 2009
This information is intended to be accurate as of the date created and may not reflect changes in the law since that time. This information also may not apply to all situations and is not intended to serve as legal advice or to create an attorney-client relationship between the parties. Individuals who have questions about the information included in this memorandum should contact their legal counsel.
Course Contents

• OBJECTIVES
• PART ONE- Overview: What is the ADA?
  – Federal Laws
  – Purpose
• PART TWO- The ADA at Work: Application of the Law
  – Covered Employment Practices
  – Who is Protected?
  – Accommodations
  – Confidentiality
• PART THREE- Being a Considerate Co-Worker
  – Tips for Communicating with Persons with Disabilities
• PART FOUR- Contact Information and Resources
  – Campus Contact Information & Resources
  – External Resources
Upon completion of this training the participant will:

- Be able to define a “disability” per ADA guidelines
- Understand who is protected by the ADA
- Be able to define “reasonable accommodation”
- Understand the accommodation process at UA
- Be able to obtain additional resources and contact information regarding the ADA and other disability-related topics
PART ONE - Overview: What is the ADA?
Federal Law

- Section 504 of the Rehabilitation Act of 1973 prohibits federal fund recipients from discriminating based on disability.

- The Americans with Disabilities Act (ADA) is much broader, covering:
  - Employment
  - Public Services & Transportation
  - Public Accommodations
  - Telecommunications
  - Other Related Areas
Purpose of Employment Protections under ADA

• The ADA is intended to “level the playing field” for employees with disabilities.

• Qualified employees must be afforded the same opportunities to succeed.

• Reasonable accommodations must be made to allow individuals to participate equally, unless it would impose an undue hardship on UA.
PART TWO -
The ADA at Work: Application of the Law
What Employment Practices Are Covered?

- Recruitment
- Hiring
- Promotion
- Training
- Layoffs
- Pay
- Firing
- Job Assignments
- Leave
- Benefits
- Retaliation
- All other employment-related activities
Retaliation Prohibited

• The ADA prohibits an employer from retaliating against an employee for asserting his/her rights under the ADA.

• Retaliation is defined as:
  – “Any act occurring directly due to a complaint of harassment or discrimination”
  – UA Rule 3359-11-13 prohibits retaliation
Who Is Protected?

1. Qualified Individuals with a Disability
   - Must meet skill, experience, and education requirements of the position held or desired
   - Must be able to perform essential functions of the job with or without accommodation

2. Family Relationships
   - It is unlawful to discriminate against an applicant or employee, whether disabled or not, because of the individual’s family, business, social, or other relationships with an individual with a disability.
The ADA protects qualified individuals with a disability. Such a disability must substantially limit a major life activity. The individual must be able to perform the essential functions of the job, with or without accommodation.
Who Is a Qualified Individual?
(cont.)

Let’s break it down…

- Disability
- Substantial Impairment
- Major Life Activity
- Essential Job Functions
What Is a Disability?

• Physical or mental impairment that **substantially limits** a major life activity; OR

• A *record* of a substantially limiting impairment (e.g., history of cancer); OR

• *Regarded* as having a substantially limiting impairment (e.g., speaks slowly so misimpression of retardation, cosmetic issues)
Is It a Substantial Impairment?

- The impairment must substantially limit a major life activity.

- Three factors considered:
  1. Nature and severity
  2. Expected duration
  3. Permanency or long-term impact
     - OR -
  Perceived as having a substantial impairment by others
Major Life Activities

Some examples:

- Hearing
- Seeing
- Speaking
- Breathing
- Performing Manual Tasks
- Walking
- Caring for oneself
- Learning
- Working
What Are the Essential Functions of a Job?

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

• Factors to consider:
  – Whether the reason the position exists is to perform that function
  – The number of employees available to perform the function or among whom the performance of the function can be distributed
  – The degree of expertise or skill required to perform the function
Other evidence:

- Written job description prepared before advertising or interviewing
- Actual work experience of present or past employees
- Time spent performing a function
- Consequences of not requiring the employee to perform the function
- Terms of a collective bargaining agreement
Accommodation

1. Duty to Provide Accommodation
2. Requests for Accommodation
3. Refusal of Accommodations
4. Reasonable Accommodations
   – Undue Hardship
5. The Accommodation Process at UA
Duty to Provide Accommodation

• Accommodations are changes or adjustments to a job or work environment.

• Employers must provide reasonable accommodations to permit qualified applicants or employees with a disability to:
  – Participate in the job application process
  – Perform the essential functions of the job
  – Enjoy benefits and privileges of employment equal to those of employees without disabilities
Requests for Accommodation

• **It is the responsibility of the individual with a disability to request an accommodation!!!**
• If the disability is not obvious, an employer may ask the employee for documentation from a health professional describing the nature, severity, and duration of the impairment; the limitations caused, and how the accommodation relates to the limitations.
Refusal of Accommodations

The ADA provides that an employer cannot require a qualified individual with a disability to accept an accommodation that is neither requested nor needed by the individual. However, if a necessary reasonable accommodation is refused, the individual may be considered not qualified.
Reasonable accommodations may include:

- Acquiring or modifying equipment or devices
- Job restructuring
- Part-time or modified work schedules
- Reassignment to vacant positions
- Adjusting examinations, training materials, or policies
- Providing readers and interpreters
- Making the workplace readily accessible and usable by persons with disabilities
Undue Hardship

It is a violation of the ADA to fail to provide reasonable accommodation to the known physical or mental limitations of a qualified individual with a disability, unless to do so would impose an **undue hardship** on the operation of the business.
What is Undue Hardship?

• Would fundamentally alter the nature or operation of the business, or would be unduly costly, extensive, substantial, or disruptive

• Factors to consider:
  – Cost of the accommodation
  – The employer’s size and financial resources
  – Nature and structure of the business operation
If Undue Hardship....

• Must try to identify another accommodation that will not pose such a hardship *

• Must provide the applicant or employee the opportunity to provide the accommodation or pay for the portion of the accommodation that constitutes the undue hardship

*NOTE: The ADA Coordinator and Human Resources will work with the supervisor and employee to help identify a mutually satisfactory accommodation.
The Accommodation Process at UA

- Employee obtains copy of **Accommodation Request Form** on web or from ADA Coordinator’s Office
- Employee forwards Accommodation Request Form and/or contacts ADA Coordinator’s Office
- ADA Coordinator will work with supervisors and Human Resources to determine the reasonable accommodation
- Supervisor will be notified of the requested accommodation, but the ADA Coordinator will not disclose the specific medical condition
- ADA Coordinator will keep the medical condition as confidential as possible

Forms can be obtained at the AA/EEO “Forms” website, located at: [www.uakron.edu/hr/EEOForms.php](http://www.uakron.edu/hr/EEOForms.php)
The Accommodation Process at UA

Students:
• The ADA protects qualified students with disabilities by granting equal access opportunities to their educational experiences at The University of Akron
• Students with questions or concerns about disabilities and/or accommodation requests should be directed to the Office of Accessibility
  – [http://www3.uakron.edu/access/](http://www3.uakron.edu/access/)
  – (330) 972-7928
  – (330) 972-5764 (TDD)
Confidentiality of Medical Records:
• The results of all medical examinations or information from inquiries about a disability must be kept confidential and maintained in separate medical files.

Confidentiality Regarding Accommodations:
• Managers cannot tell co-workers that accommodations are being installed to comply with the ADA.
• Managers should respond to inquiries regarding accommodations by stating that the employer is simply “meeting its obligations under federal law.”
PART THREE - Being a Considerate Co-Worker
The information on the next five slides is taken from the Department of Labor website on communicating with people with disabilities, located at:

http://www.dol.gov/odep/pubs/fact/comucate.htm

For more information on communicating with and about people with disabilities, please visit the Department of Labor website at www.dol.gov.
“The Americans with Disabilities Act, other laws, and the efforts of many disability organizations have made strides in improving accessibility in buildings, increasing access to education, opening employment opportunities, and developing realistic portrayals of persons with disabilities in television programming and motion pictures.

Where progress is still needed is in communication and interaction with people with disabilities. Individuals are sometimes concerned that they will say the wrong thing, so they say nothing at all—thus further segregating people with disabilities. Listed here are some suggestions on how to relate to and communicate with and about people with disabilities.”

http://www.dol.gov/odep/pubs/fact/comucate.htm
It is important to remember that proper etiquette in communicating with persons with disabilities is based on 2 primary concepts:

**RESPECT**

**AND**

**COURTESY**

General Tips

• When introduced to a person with a disability, it is appropriate to offer to shake hands. People with limited hand use or who wear an artificial limb can usually shake hands. (Shaking hands with the left hand is an acceptable greeting.)

• If you offer assistance, wait until the offer is accepted. Then listen to or ask for instructions.

• Treat adults as adults. Address people who have disabilities by their first names only when extending the same familiarity to all others.

• Relax. Don’t be embarrassed if you happened to use common expressions such as “See you later,” or “Did you hear about that?” that seem to relate to the person’s disability.

• Don’t be afraid to ask questions when you’re unsure of what to do.

http://www.dol.gov/odep/pubs/fact/comucate.htm
“Positive language empowers. When writing or speaking about people with disabilities, it is important to put the person first. Group designations such as ‘the blind,’ ‘the retarded,’ or ‘the disabled’ are inappropriate because they do not reflect the individuality, equality or dignity of people with disabilities. Further, words like ‘normal person’ imply that the person with the disability isn’t normal, whereas ‘person without a disability’ is descriptive but not negative.”

http://www.dol.gov/odep/pubs/fact/comucate.htm
## Affirmative Phrases vs. Negative Phrases

<table>
<thead>
<tr>
<th>Affirmative Phrases</th>
<th>Negative Phrases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Person with an intellectual, cognitive, developmental disability</td>
<td>Retarded, mentally defective</td>
</tr>
<tr>
<td>Person who is blind; person who is visually impaired</td>
<td>The blind</td>
</tr>
<tr>
<td>Person with a disability</td>
<td>The disabled, handicapped</td>
</tr>
<tr>
<td>Person who is deaf; person who is hard of hearing; unable to speak</td>
<td>The deaf; deaf and dumb; suffers a hearing loss; mute</td>
</tr>
<tr>
<td>Person who has multiple sclerosis; cerebral palsy; muscular dystrophy</td>
<td>Afflicted by MS; CP victim; stricken by MD</td>
</tr>
<tr>
<td>Person with epilepsy; person with seizure disorder</td>
<td>Epileptic</td>
</tr>
<tr>
<td>Person who uses a wheelchair</td>
<td>Confined or restricted to a wheelchair</td>
</tr>
<tr>
<td>Person with a physical disability; physically disabled</td>
<td>Crippled, lame, deformed</td>
</tr>
<tr>
<td>Person who is successful, productive</td>
<td>Has overcome his/her disability</td>
</tr>
</tbody>
</table>

Disability Awareness Training

VIDEO:

“The 10 Commandments of Communicating with People with Disabilities”

Produced by: Irene M. Ward & Associates
Distributed by: Program Development Associates

Learning, Development & Communication Services can provide a video on communicating with persons with disabilities. The video runs for 26 minutes. Employees who are interested in viewing this video are encouraged to call ext. 7783 or email: hrtraining@uakron.edu.
PART FOUR - Contact Information & Resources
• ADA Coordinator (330) 972-6462
  – Employee accommodations and coordination of UA programs, policies, training, and procedures relating to compliance and the promotion of opportunities for persons with disabilities

• AA/EEO Office (330) 972-7300
  – Complaints of discrimination

• Office of Accessibility (330) 972-5770
  – Student accommodation and classroom instruction issues

• Physical Facilities Operation Center (330) 972-6340
  – Improving accessibility of existing structures

• Campus Planning (330) 972-7347
  – Design of new, accessible buildings
External Resources

• EEOC website
  – www.eeoc.gov

• EEOC Resources on Disability Discrimination
  – http://www.eeoc.gov/types/ada.html

• The Americans with Disabilities Act of 1990, Titles I and V
  – http://www.eeoc.gov/policy/ada.html

• Section 504 of the Rehabilitation Act of 1973
  – http://www.dol.gov/oasam/regs/statutes/sec504.htm
Other Available Trainings

To learn more about other online training topics, visit our Online Training Modules web page:
http://www.uakron.edu/hr/hrtraining/Online_Trainings/Online_trainings.php

Learning, Development & Communication Services is housed in the Administrative Services Building.

Mail Code: +4732
E-mail: hrtraining@uakron.edu
Phone: (330) 972-7783
Fax: (330) 972-5187
Training Catalog: www.uakron.edu/hr/hrtraining
Online Registration: www.uakron.edu/seminars
If this is your first time viewing this online training module and you would like to have it officially documented that you have completed this training, print a copy of the Online Training Participation Acknowledgement Form located at:

http://www.uakron.edu/hr/hrtraining/docs/ADAforEmployeesParticipationForm.doc

Sign, then forward the form through campus mail to Learning, Development & Communications Services +4732.
Course Evaluation

• How helpful was this training? Tell us how we can make this training module more useful to you and others. To obtain an evaluation form, please visit http://www.uakron.edu/hr/hrtraining/docs/ADAEmployeesEvaluationForm.doc

• Thank you for your participation!

• We look forward to seeing you in future classroom trainings!

We are here for you!