



10 MOST COMMONLY ASKED QUESTIONS FROM EMPLOYERS

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Legal Disclaimer

Nothing in this presentation should be interpreted as legal advice.

This presentation is intended to assist viewers understand the obligations for non-discrimination in employment under the Americans with Disabilities Act.



Let's Start With Some Facts

- 58 Million People (19.3% of the population) have some level of disability
- 40% of people over the age of 65 have a disability
- 32% of Americans with Disabilities aged 18-64 are working
 - 2/3 of the 68% who are unemployed would rather be working





Employment Rates

- **National Labor Force Participation Rate**

- People with disabilities: 19.6%
- People without disabilities: 66.4%

- **National Unemployment Rate**

- People with disabilities: 12.0%
- People without disabilities: 6.0%

- **Wisconsin Specific Employment Statistics**

- 84% individuals without a disability age 18-64 are working
- 41% individuals with some form of disability age 18-64 are working
 - Greater than 50% difference
- FT / FY Employment: without disability 65.7%
- FT / FY Employment: with disability 25.7%
 - Greater than 50% difference





10 Most Commonly Asked Questions from Employers

1. How do I know who is a person with a disability under the ADA?

ADA Amendments Act of 2009

- Broadening of definition of disability
 - MORE people are covered
- Removes emphasis on “severity”
- Eliminates “mitigating measures”
- Includes individuals who have episodic conditions, abnormal cell growth, limitations in bodily functions
- Strengthens “Regarded As” prong of the definition



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2. Do I have to hire someone with a disability if they apply for a job?
 - The ADA is not an affirmative action statute
 - Hire the most qualified individual
 - Do not “disqualify” someone with a disability solely on the basis of the fact that they will need an accommodation



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3. Can I ask someone to tell me about their disability?
What questions can I ask?
- Do not focus on the disability or ask questions about it
 - Focus questions and inquires on the job tasks and how the applicant would perform them
 - An Employer can not make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of an applicant disability
 - An Employer may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of employment. (the condition of the offer is contingent on the results of the examination)



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4. Do I have to provide someone with everything that they ask for?
 - You are only required to provide what is “reasonable”
 - Accommodations must be effective
 - You are not required to provide someone’s “preferred” accommodation
 - Match the requested accommodation with the work related limitation
 - Personal services are not required
 - Eye glasses
 - Hearing aids
 - Mobility aids



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5. Do I set precedence by providing an accommodation for an employee?
 - No, reasonable accommodation is considered on a case by case basis
 - Establish procedures for requesting accommodations
 - Educate employees so that they know what the policy/procedure is and how it applies



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6. I am afraid to hire someone with a disability because they will most likely sue me at some point. How do I protect myself?
 - All employees are a potential “what if” when it comes to litigation
 - Follow appropriate policies and procedures when considering reasonable accommodations and document your efforts
 - Create a workplace environment that reinforces non-discrimination on the basis of disability. Embrace disability as part of your overall diversity program.



10 Most Commonly Asked Questions from Employers

7. Do I have to pay someone with a disability even if they took a 2 hour break?
 - You are only required to pay someone for work that they have performed
 - Altered work schedules, additional breaks, part-time schedules or use of unpaid time are forms of reasonable accommodation
 - Consider use of other benefits to address leave for disability related issues
 - FMLA, Vacation or Sick time, Unpaid leave, etc.



10 Most Commonly Asked Questions from Employers

8. What can I tell other employees when they ask me why someone got a special piece of equipment or time off?
 - Medical Information is confidential
 - Inform employees that you are complying with local, state and federal laws
 - Provide disability awareness training and educate all employees about the reasonable accommodation process



10 Most Commonly Asked Questions from Employers

9. How do I pay for accommodations?

- Employers are responsible for the cost of accommodations
- You are only required to provide accommodations that are “reasonable”
 - Administrative or Financial Hardship
- Consider the impact of Tax Credits and Deductions:
 - IRS Code 190 – Architectural Barrier Removal Tax Deduction (Maximum \$15,000/yr)
 - IRS Code 44 - Disabled Tax Credit (Maximum \$5,000/yr)
 - Small employers (30 or fewer employees or >1M gross revenues)



10 Most Commonly Asked Questions from Employers

10. How do I discipline someone with a disability?
Can I fire them?
 - Workers with disabilities are held to the same workplace standards for conduct and performance as co-workers without disabilities
 - If an individual identifies a disability as the reason for the poor performance, then engage in the reasonable accommodation process to see if there is any accommodation that will allow the individual to perform their job.
 - “My disability made me do it” is not a defense



EMPLOYING PEOPLE WITH DISABILITIES MAKES GOOD BUSINESS SENSE



WI ADA & Title VI Coordinators Association



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WISCONSIN ADA COORDINATORS ASSOCIATION

Who are we?

Why did we form an association?

What do we do?

How do we do it?



Who are we?

- The Wisconsin ADA Coordinators Association is an affiliate organization of the League of Wisconsin Municipalities.
- The association membership is currently open to all Title II ADA Coordinator/Administrators responsible for ensuring all programs, services and activities offered by the public entities we serve.
- The Wisconsin ADA Coordinators Association board includes:
 - City of Milwaukee ADA Coordinator Rebecca Rabatin – President
 - City of New Berlin Director of Admin Svs. David Bailey – Vice President
 - WisDOT Title VI and ADA Coordinator Taqwanya Smith – Secretary
 - City of Madison ADA Coordinator Jason Glozier – Treasurer
 - SE ADA Center Webmaster Marsha Schwanke - Webmaster



Why did we form an association?

- Provide a forum for ADA Coordinators, Accessibility Specialists, City/Town Design Professionals (in-house or consultants) and Human Resource Managers to advance the principles of the Americans with Disabilities Act.
- Fulfill the need of a free flowing environment of information for communities in Wisconsin regarding ADA and Title I & II compliance.
- Share best practices utilized within Wisconsin communities providing accessible programs, services and activities that may not necessarily be addressed by design standards (ADAS, PROWAG, etc.) or by State Statutes.



What is our mission?

- Promote higher professional and ethical standards in the field of ADA Compliance.
- Collaborate with the Great Lakes ADA Regional Center, and other affiliated groups to better understand the best practices of the ADA, and how they can be implemented in the community.
- Develop a network of ADA Coordinators to communicate issues, concerns, strategies, and solutions for community transition to ADA compliance.
- Engage community and state leaders.
- Provide interpretation and clarification through networking opportunities.



How do we do it?

- Maintain a website which includes membership registration.
- Maintain a listserv and alert members of any ADA/Section 504 news.
- Provide regular webinar learning opportunities.
- Post-COVID, hold board meetings throughout regional areas within the State.
- Post-COVID, provide training opportunities throughout regional areas within the State.
- Encourage utilization of ADA Center resources.
- Promote obtaining the professional certificate through the ADA Coordinator Training Program.