

# Americans with Disabilities Act (ADA) Training

Completed by: Bushue HR, Inc.

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## ADA Definition

- ▶ According to the definition set forth in the Act, an individual with a disability is someone who has "a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment."
- ▶ The Act further defines a physical or mental impairment as "any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities."

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## ADA Defined

### The Americans with Disabilities Act:

- ▶ Applies to employers with 15 or more employees.
- ▶ Protects individuals with disabilities from discrimination.
- ▶ Requires “reasonable accommodation” if needed in order to perform “essential functions” of a job.

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## What is a Disability?

- ▶ Individual has physical or mental impairment which substantially limits a major life activity.
- ▶ Has record of such an impairment.
- ▶ Being regarded as having such an impairment (including being subjected to prohibited action because of actual or perceived impairment whether or not impairment limits a major life activity).
  - Does not apply to impairment with an actual or expected duration of six months or less.

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## What is a Disability?

Whether impairment substantially limiting made without regard to “ameliorative effects” of mitigating measures.

Defines mitigating measures as including:

- Medication
- Medical supplies, equipment, or appliances
- Low-vision devices (not including ordinary eyeglasses or contact lenses)
- Prosthetics
- Hearing aids and other hearing devices
- Mobility devices
- Other types of medical assistance or therapy

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## What is a Disability?

▶ Impairment that substantially limits one major life activity need not limit other major life activities to be considered a disability.

▶ Definition of a major life activity includes:

- |                          |                |
|--------------------------|----------------|
| •caring for oneself      | •bending       |
| •performing manual tasks | •speaking      |
| •seeing                  | •breathing     |
| •hearing                 | •learning      |
| •eating                  | •reading       |
| •sleeping                | •concentrating |
| •walking                 | •thinking      |
| •standing                | •communicating |
| •lifting                 | •working       |

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## What is a Disability?

### Major bodily functions:

- immune system
- digestive
- bowel
- bladder
- neurological (dyslexia – brain and learning disabilities)
- respiratory
- circulatory
- reproductive functions
- endocrine

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## What is a Disability?

- ▶ Medical conditions that would easily be considered a disability:
  - Diabetes
  - Cancer
  - Epilepsy
  - Intellectual Disabilities.

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## What is a Disability?

- ▶ Partial or Completely Missing Limbs
- ▶ Mobility Impairments requiring the use of a wheelchair
- ▶ Autism
- ▶ Cerebral Palsy
- ▶ HIV Infection
- ▶ Multiple sclerosis
- ▶ Muscular dystrophy
- ▶ Major depressive disorder
- ▶ Bipolar disorder
- ▶ Post-traumatic stress disorder
- ▶ Obsessive-compulsive disorder
- ▶ Schizophrenia

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## What is NOT a Disability?

- ▶ Specific conditions that are **NOT** considered to be impairments under the ADA and that are excluded from coverage. The term "impairment" does not include the following:
  - Homosexuality and bisexuality.
  - Compulsive gambling.
  - Kleptomania.
  - Pyromania.
  - Transvestism.
  - Transsexualism.
  - Exhibitionism.
  - Pedophilia.
  - Voyeurism.
  - Gender identity disorders not resulting from physical impairments.
  - Sexual behavior disorders.
  - Physical characteristics.
  - Pregnancy.
  - Common personality traits.
  - Obesity (other than morbid obesity).

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## Employment Practice Discrimination

- ▶ The ADA makes it unlawful to discriminate in employment practices such as:
  - Recruiting
  - Firing
  - Hiring
  - Training
  - Job assignments
  - Promotions
  - Pay
  - Benefits
  - Layoffs
  - Leave
  - All other employment related activities

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## Substance Abuse

- ▶ Alcohol
  - An alcoholic is protected by the ADA as having a disability
    - A person who currently uses alcohol is not automatically denied protection simply because of alcohol use. An alcoholic is a person with a disability under the ADA and may be entitled to consideration of accommodation, if he/she is qualified to perform the essential functions of a job. However, an employer may discipline, discharge, or deny employment if the consumption of alcohol affects job performance.
- ▶ Drugs
  - A drug addict is protected as having a disability only if he/she is receiving recovery treatment.
    - A person addicted to drugs, but is no longer using drugs illegally and is receiving treatment or has been rehabilitated successfully, is protected by the ADA from discrimination due to past drug addiction.

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## Possible Accommodations in Schools

- ▶ Possible Accommodations
  - Auxiliary aids for students with hearing, vision, and speech disabilities.
  - Schools may need to provide an integrated setting if possible so that students with disabilities can meet their educational needs. These can include special education services, adjusting test-taking rules, absence policies, etc.

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## Possible Accommodations in Schools

- ▶ At least 5 percent of classroom tables must be wheelchair accessible.
  - Tables must be between 28 and 34 inches high with at least 24 inches of knee clearance to accommodate students in wheelchairs.
- ▶ Must provide adequate handicap parking.
- ▶ School buildings must be made so that disabled students are able to access them.
  - Example: Wheelchair ramps
- ▶ Automatic Doors – according to the ADA automatic doors must be low-energy meaning it should not take a lot of force to activate them.
  - Door should be 36 inches wide for wheelchair access.

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# Accommodations

**Individuals with disabilities may require an accommodation to perform the essential functions of a job.**

**Essential job functions are the fundamental duties of the job.**

**A job function may be considered essential if:**

- The job exists to perform that function.
- The function requires specialized skills or expertise and the person is hired for that expertise.
- There is only a limited number of employees to perform the function.

**Examples of essential job function accommodations:**

- Providing special phone for receptionist with hearing impairment.
- Providing frequent stretching break for employee with muscular/joint/vascular disorder whose job requires long periods of sitting/standing.

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# Sources

- ▶ Information obtained from the Society for Human Resource Management

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