

Hiring and Supporting



People with Disabilities

Produced by the ADA Wisconsin Partnership in cooperation with the Green Bay Area Chamber of Commerce



July 2005

Please note that this is not to be construed as a legal document. If you have questions involving legal issues, please contact an attorney. The ADA Wisconsin Partnership hereby grants permission to reprint this publication in whole or in part, if acknowledgment is given. This document was created using a similar handbook distributed by the Greater Bloomington Chamber of Commerce.

Purpose

This handbook will help you work with persons who meet the usual definition of being “disabled.” It will explain your responsibility under the Americans with Disabilities Act (ADA) and the Wisconsin Fair Employment Act (WFEA). And, it will tell you how easy and inexpensive it usually is to provide reasonable accommodation.



Who is protected by the ADA? By the WFEA?

The ADA applies to a person who has a physical or mental impairment that substantially limits one or more major life activities (such as sitting, standing, or sleeping . . . there is no definitive list of covered impairments). If an individual uses mitigating measures such as medications or corrective devices they may not be covered if while using those mitigating measures they are not substantially limited.

1. The ADA covers more than just people who are deaf, people who are blind, or people who use wheelchairs.
2. People who have physical conditions such as epilepsy, diabetes, HIV infection or severe forms of arthritis, hypertension, or carpal tunnel syndrome may be individuals with disabilities.
3. People with mental impairments such as major depression, bipolar (manic depressive) disorder, traumatic brain injuries or mental retardation also may be covered.

The ADA also protects a person with a record of a substantially limiting impairment.

Example: A person with a history of cancer that is now in remission may be covered by the ADA.

The ADA protects a person who is regarded (or treated by an employer) as if she has a substantially limiting impairment. Sometimes, a person may be covered even if she has no impairment or has a minor impairment, particularly if the employer acts based on myths, fears, or stereotypes about a person’s medical condition.

Example: An employer may not deny a job to someone because of a condition some people might regard as a disability, such as burns, limps or lisps. People with these conditions may not have a disability as defined by law, but they are protected from discrimination because people wrongly perceive them as disabled.

In employment, the ADA protects only a person who is qualified for the job she has or wants.

1. The individual with a disability must meet job-related requirements (for example, education, training, or skills requirements).
2. The individual with a disability must be able to perform the job’s essential functions (i.e., its fundamental duties) with or without a reasonable accommodation. An essential function may be thought of as the reason why the position exists. In other words, why does the employer have a position such as this? A person with a disability may still be considered a qualified individual even if they cannot perform the marginal functions of a job with or without a reasonable accommodation.

The Wisconsin Fair Employment Act (WFEA) covers all Wisconsin employers. (The ADA only applies to employers with 15 or more employees.) The definition of who is protected under the disability provisions of the WFEA are broader than those under the ADA. The WFEA definition covers an individual who has a physical or mental impairment that makes achievement unusually difficult or limits the capacity to work, or who has record of such an impairment, or who is perceived as having such an impairment. Additionally, the WFEA looks at disability without regard to mitigating measures. The WFEA requires an employer to reasonably accommodate an individual with a disability unless the employer can demonstrate that it would pose a hardship to do so. It is not discrimination under the WFEA to refuse to employ a person with a disability who cannot adequately undertake the job related responsibilities with or without a reasonable accommodation. The duty to reasonably accommodate under the WFEA has been interpreted to include such things as providing assistive devices, modifying work spaces, rearranging job duties, modifying work schedules, and allowing for time off.

Frequently Asked Questions

Why should I recruit and hire people with disabilities?

The answer is, it makes good business sense. For your business to grow, you want workers who are qualified, dependable and an asset to the company. Often, people with disabilities can meet your business needs. Be sure to consider this important, and growing, potential recruiting pool when filling vacancies.

Isn't it going to be very expensive for me to make my business accessible to applicants and customers with disabilities?

This concern is shared by many businesses, but experience shows it is unfounded. Studies have shown that more than half of all accommodations cost less than \$500 and more than 80 percent cost less than \$1,000. Approximately 20 percent cost nothing at all. In addition, there are resources available to help with some accommodations. (See the Resource List in the Appendix.) Also, help in the form of tax credits may offset the costs of removing architectural barriers. If a person needs an accommodation and it is an undue hardship (too expensive) for your business, you're not legally required to provide it. However, keep in mind that the easier it is for people with disabilities, as well as aging citizens, to access your business, the more profit your company will enjoy. People with disabilities represent a market with needs like other customers, as well as a potential job applicant pool.

Will my insurance rates go up?

A survey of human resource managers, conducted by Cornell University, has found that companies' health, life and disability insurance costs rarely rise because of hiring employees with disabilities. However, attitudinal stereotypes about people with disabilities remain pervasive in the workplace, causing them to be hired less and fired more frequently than workers without disabilities.

How will hiring people with disabilities affect the morale of my other employees?

Your concern about your other employees is one that every good manager needs to consider in hiring any new employee. Depending upon your other workers' experiences with people with disabilities, they may be uncomfortable at first, but this doesn't usually last long, once they get to know the person. It's fine, of course, for co-workers to provide the same kind of typical, natural supports to an employee with a disability as they provide to others, such as offering rides, sharing breaks and giving tips on how to handle the job. You may need to make sure your other workers are not trying to assist the person with a disability too much.

What happens if the person with a disability doesn't work out in my company?

The issue of a person with a disability experiencing performance problems which might lead to termination is an issue that many employers fear. It is never easy to terminate anyone from a job. However, if the employee is not able to do the work, with or without reasonable accommodations, and after efforts have been made to correct the performance without results, you are within your legal rights to terminate the employee with a disability, just as you would any other employee.

How do I deal with a person with a disability in an interview situation and what if I say the wrong thing?

You may be concerned about the proper etiquette when meeting and interviewing someone with a disability. Should you offer your hand? Should you move furniture? What if you make a mistake or say something you think might be offensive, such as "Nice to see you" to a blind person? You should not question a person with a disability in an interview about his or her disability or his or her need for reasonable accommodations. It is okay to tell the individual what the job functions are and ask him or her to describe how he or she would accomplish them. If the interviewee mentions the need for accommodations, it is okay for you to ask a few follow-up questions so that you can understand what is needed. A more in-depth discussion of accommodations and various ways of providing them is better left until after a person has been offered a job.

All of these feelings are common when you first meet someone with a disability. However, the more contact you have with people with disabilities and the more interviews you conduct, the more comfortable you will become. If you make a mistake, just shake it off and move on. We are all human and make mistakes. There are excellent resources on disability etiquette located on the Job Accommodation network janweb.icdi.wvu.edu:

Disability Etiquette

Distributed by: Commission of Persons with Disabilities--A Division of the Department of Human Rights; Capitol Complex; Dex Moines, IA 50319

Disability Etiquette Handbook

The City of San Antonio, Texas and the Disability Advisory Committee have prepared this Disability Etiquette Handbook to enhance opportunities for persons with disabilities to pursue careers and independent lifestyles.

Guide to Etiquette and Behavior for Relating to Persons with Disabilities

A general publication by the American Friends Service Committee Affirmative Action Office.

Disability Etiquette Tips for Speaking Engagements Checklist

A publication provided by the Job Accommodation Network.

Utterly Adaptable Etiquette Guide

Access Utah Network Publication

Recruiting People with Disabilities

When recruiting applicants, reach out to the entire community, not just to sources of previous applicants. Develop and maintain contacts with people with disabilities. If you establish relationships with people with disabilities, you'll go a long way towards establishing credibility and communicating your desire to include people with disabilities in your applicant pool.

Here are a few specific suggestions:

1. Make your buildings and grounds accessible.
2. Send all of your vacancy announcements to disability-related organizations and groups.
3. On your job announcements, mention your interest in receiving applications from people with disabilities.
4. Volunteer to serve on boards of disability groups.
5. Participate in job fairs or exhibits at conferences and meetings sponsored by local disability-related groups.
6. Make job announcements available in alternate formats, such as large print, Braille or audiotape.
7. Work with the local office of the Division of Vocational Rehabilitation (DVR) to help find qualified applicants with disabilities.
8. Make sure your company Web site is accessible (see appendix for Bobby Web site accessibility approval.)

Providing Reasonable Accommodation

Many people in the business community believe accommodations for people with disabilities are costly. In reality, many accommodations cost little or nothing. The first step is to stop thinking that accommodations take only the form of a ramp or other structural changes. This is often not the case.

Learn to look at a situation and ask, "Can we do this any other way?" Just because "that is how we've always done it" does not mean it is the only way it can be done. Remembering this can make the difference in gaining or keeping a valuable employee.

Most accommodations are simpler than you might expect. A few examples include:

1. When talking to an applicant or employee who is deaf or hard of hearing, ask him or her how they want to communicate. Allow them to guide you. It may be in the form of writing back and forth, using the computer, signing or gesturing, or lip reading (this is not always the best option)
2. Some medications have side effects such as dry mouth and fatigue. This may mean the employee may need an accommodation. *For example: For dry mouth, allow the employee to carry a container of water with them on the job, or wear a camel, a pressurized container. For both dry mouth and fatigue, allow the employee to take shorter, more frequent breaks to rest, to get a drink of water or to take medication.*
3. In a situation where an employee is having difficulty performing functions that are not essential to his or her position, consider switching marginal functions with a co-worker.
4. If an employee is deaf, hard of hearing or has trouble speaking and cannot answer the phone accommodations are often easy. The relay number is 1-800-927-6644. 711. Have incoming calls directed to Wisconsin Relay. (See glossary.) This service is free, but is an option only if the employee uses a TTY/TDD device. There are additional communication technologies available, such as instant messenger, pagers and software similar to TTY for computers. Another option may be to assign another employee to answer the phone for this person. For an employee with some hearing, buy an amplifier. This feature is standard on most office phones and the phone can be used by anyone. There are different devices that can be bought to increase the volume past what is adjustable on most phones and are easily added to the phone. While the most costly, this last option still costs less than \$100.

5. For employees who have trouble with reading or memory, consider color-coding supplies. This could help the employee recognize which substance goes into which container. This accommodation, while not free, is very low cost. Index cards could be used to help an employee with a memory impairment to remember what comes next.
6. For an employee with a vision impairment, consider these options:
 - a. Provide screen enlarger software for his or her computer.
 - b. Provide agenda and other materials electronically, in advance, on a disk or send via email.
7. For an employee with motor control difficulties, consider these options:
 - a. Provide key guards for keyboards, which prevent unintentional stroking of keys.
 - b. Change the controls on the keyboard to enable the employee to use the number pad as a mouse.
8. Additional options for accommodations for different situations include the following:
 - a. Put a desk on blocks instead of getting a new, higher one for a wheelchair user.
 - b. Move the site of an interview with an applicant who has a mobility impairment.
 - c. Format job applications in large print.

These are just a few examples of the wide range of affordable options available to help businesses get and keep employees with disabilities.

Frequently, all it takes is a willingness to look at things in a different way. Keep in mind that the best resource is often the person with a disability. He's likely been living with a disability for some time, and can suggest many affordable, effective accommodations. See the Job Accommodations Network Web site at: janweb.icdi.wvu.edu

Practice Pointers

Trying to apply the legalese of the ADA to real-life work situations can be daunting. We hope the following practice pointers make it bit easier.

1. Employers don't have to hire someone with a disability over a more qualified person without a disability. The ADA's goal is to give people equal opportunities, not unfair advantages.
2. Funding is available to help offset the cost of providing reasonable accommodations. Small businesses with either \$1,000,000 or less in revenue or 30 or fewer full-time employees may take a tax credit of up to \$15,000 each year for the cost of providing reasonable accommodations such as sign language interpreters, the purchase of adaptive equipment or the removal of architectural barriers. The credit is called the Small Business Tax Credit IRC Section 44: Disabled Access Credit. (Caution: this credit is up for renewal, so make sure it is still available.)
3. Businesses that hire people from certain targeted low-income groups, including people referred from vocational rehabilitation agencies and people receiving SSI, may be eligible for an annual tax credit of up to \$2,400 for each qualifying employee who works at least 400 hours per year.
4. Don't use safety concerns as a blanket excuse for not hiring a person with a disability. Your employment decisions need to be based on specific, substantiated concerns about a particular person, not on myths, unsubstantiated fears or stereotypes about a person's ability to do the job safely.
5. Let your applicants and employees know how to let you know they need an accommodation. This might mean a statement on your job posting and in your personnel manual, explaining who your contact person for reasonable accommodations is. Providing applications in alternative formats or offering more than one way to apply for positions may be another way to increase access.
6. If you find that a requested accommodation would result in an undue hardship for your business, and you can substantiate that conclusion, you don't have to provide it. But you do have to consider whether there are other, more affordable, accommodations that will work. Often, as outlined in this handbook, reasonable accommodations are quite affordable.

Glossary of Terms Relating to Employment

Accommodations: These are adjustments or modifications provided by an employer to provide people with disabilities equal employment opportunities. Accommodations must be provided to a person with a disability if doing so does not cause an undue hardship. This occurs when providing the accommodation would result in significant difficulty or expense. Accommodations vary depending on the individual and his or her needs.

Examples include:

- Scheduled breaks for someone who has diabetes to monitor blood sugar and insulin levels.
- Repositioning work or work supplies for an individual who uses a wheelchair.
- Sign language interpreter for a person who is deaf.
- Internet CART services for person who is deaf or hard of hearing to participate in teleconferencing.
- Remove nonessential tasks from a job or reassign them to another worker.
- Modify a work schedule to enable an employee to be at maximum productivity.
- Provide materials in large print or electronic formats.

Adaptations: Some individuals may require specialized equipment to perform his or her job. Some examples: voice recognition software for someone who has a visual disability, an amplifier for someone who is hard of hearing, amplified or tactile stethoscopes for use by a nurse who is deaf or hard of hearing.

Disability: There are many different types of disabilities. The Americans with Disabilities Act covers those individuals who have a physical or mental illness that substantially limits one or more major life activities (for example, sitting, standing, or sleeping.)

Communication Technologies: adaptive computer software, pagers, instant messaging, e-mails, real time captioning.

Employment Agency: an agency that finds jobs for people seeking them and finds people to fill particular jobs.

Job Coaching/Supported Employment: a job coach is someone who assists in training or guiding the performance of an employee. Some workplaces may refer to this as a personal trainer. Job coaching can be provided by anyone within the workplace (supervisor or co worker) or may be provided by an employment agency.

Job Development: employment agencies that work with people with disabilities may represent that individual to employers in the community. The act of finding the right job that suits that person's strengths, interests, and support needs is called job development.

Personal Assistance: Some individuals may require the support of a personal assistant for certain daily living activities (e.g., eating, using restroom facilities, etc.). Support can be provided by people within the work setting or by individuals from an outside agency.

Relay: Service that provides the vital link for effective telephone communication between people who are deaf, hard of hearing, deaf-blind, or speech disabled, through the use of specialized equipment, to communicate freely with people who use a standard telephone. For access to the relay system, just dial 711.

Social Security Disability Insurance/Supplemental Security Income: (Commonly known as SSDI and SSI, respectively.) Some individuals with disabilities are eligible for SSDI or SSI. There are many work incentive programs available to recipients of these services to enable them to work while maintaining their eligibility status for these benefits.

TTY/TDD: A machine that allows people with hearing or speech disabilities to communicate over the phone using a keyboard and a viewing screen.

Work Opportunity Tax Credit: WOTC is an incentive provided under IRS Code Section 51 to employers who hire targeted groups, including people with disabilities. Employers who hire eligible individuals may receive an annual tax credit of up to \$2,400 for each person who works at least 400 hours during the tax year. For more information, visit the IRS Web site: www.irs.gov

Resources

There are many local, state and national organizations that provide support to businesses to recruit, hire and train individuals with disabilities, or provide invaluable information. The following is a partial list of the agencies and the services they provide:

National Disability Organizations:

General Americans with Disabilities Act (ADA) Information

Background on the ADA: <http://www.ada.gov>

ADA and Technical Assistance Information from the U.S. Department of Justice

<http://www.ada.gov>

ADA Accessibility Guidelines for Buildings and Facilities (ADAAG)

<http://www.access-board.gov/adaag/html/adaag.htm>

ADA Guidelines and the Uniform Federal Accessibility Standards

The Access Board 800-872-2253 Voice 800-993-2822 TTY www.access-board.gov

Association for Persons in Supported Employment

804-278-9187 Voice

www.apse.org

Information about supported employment services across the nation.

Bobby

A web-based tool that analyzes Web sites for their accessibility to people with disabilities. Bobby is a free public service.

<http://www.bobby.watchfire.com>

Cornell University Employment & Disability Institute

<http://www.ilr.cornell.edu/edi>

Equal Employment Opportunity Commission

800-669-4000 Toll-free

800-669-6820 TTY

www.eeoc.gov

Enforces the employment provisions of the ADA and provides guidance of discussing disability in interview and accommodating disabilities.

Fair Housing Amendment Act

<http://www.hud.gov/offices/fheo/FHLaws/index.cfm>

Job Accommodations Network

800-526-7234 Voice/TTY

www.janweb.icdi.wvu.edu

Information and direct consultation on job accommodations for people with disabilities.

National Organization on Disability

202-293-5960 Voice

202-293-5968 TTY

www.nod.org

Offers information and resources on disability issues.

The National Rehabilitation Information Center

800-346-2742 Voice

301-459-5984 TTY

www.naric.com

Searchable database for resources

Section 503 of the 1973 Rehabilitation Act

Office of Federal Contract Compliance Programs, U.S. Department of Labor

202-693-0106 Voice/Relay

www.dol.gov/dol/topic/disability/index.htm

Click on "Laws & Regulations"

Section 504 of the 1973 Rehabilitation Act

Office of Federal Contract Compliance Programs, U.S. Department of Labor

www.dol.gov/dol/topic/disability/index.htm

Click on "Laws & Regulations"

Section 508 of the 1973 Rehabilitation Act

U.S. General Services Administration Center for IT Accommodation (CITA)

202-501-4906 Voice

202-501-2010 TTY

www.itpolicy.gsa.gov

Click on "IT Access for People with Disabilities" - "Section 508"

Workforce Management

www.workforce.com

Award-winning human resources site with 1,500 articles, assessments and policies, as well as lively bulletin boards and opinion columnists. Offers a section on its Research Center devoted to legal issues.

Wisconsin Disability Resources

ADA Wisconsin Partnership

c/o Rehabilitation For Wisconsin, Inc.
1302 Mendota St., Suite 200 Madison, WI 53714-1024
608-244-5310

www.adawipartnership.org

The partnership was created to provide a forum for businesses, government entities, and people with disabilities to work together to understand and implement the American with Disabilities Act.

The Arc - Wisconsin

600 Williamson Street, Suite J
Madison, WI 53703
608-251-9272 Voice
877-272-8400 Toll-free

www.arc-wisconsin.org

Provides a variety of assistance to people with developmental and related disabilities and their families.

Brain Injury Association of Wisconsin

2900 N. 117th Street, Suite 100
Wauwatosa, WI 53222
414-778-4144 Voice
800-882-9282 toll-free

www.biaw.org

Elder Law Center

Coalition of Wisconsin Aging Groups (CWAG)
2850 Dairy Drive, Suite 100
Madison, WI 53718
608-224-0606 Voice
800-488-2596 Toll-free

www.cwag.org

The Wisconsin Equal Rights Division

Madison Office:
201 E. Washington Ave., Room A300
Madison, WI 53708
608-266-6860 Voice
608-264-8752 TTY
Milwaukee Office:
819 N. Sixth St., Room 255
Milwaukee, WI 53203
414-227-4384 Voice
414-227-4081 TTY

www.dwd.state.wi.us/er

Grassroots Empowerment Project

414-454-0221 Voice
800-770-0588 toll-Free

Mental health consumer-run organization with groups in many areas of the state.

Great Lakes ADA

1640 W. Roosevelt Road
Chicago, IL 60608
312-413-1407 Voice/TTY
800-949-4232 Toll-free

www.adagreatlakes.org

This is one of the 10 regional centers funded by the National Institute on Disability and Rehabilitation Research, a division of the U.S. Department of Education. It provides up-to-date technical assistance and training to businesses and people with disabilities regarding the ADA. It offers training sessions on request on topics such as employment rights and responsibilities, reasonable accommodations, government responsibilities, disability awareness and effective communication. Excellent source for current information about court cases and resources.

National Alliance for the Mentally Ill – Wisconsin Chapter (NAMI)

4233 West Beltline Highway

Madison, WI 53711

608-268-6000 Voice/will transfer to TTY

800-236-2988 Toll-free

www.namiwisconsin.org

Provides information, support, and advocacy regarding mental illness to consumers, families, and friends of people with severe mental illness; 34 affiliates serving 40 counties in Wisconsin.

National Multiple Sclerosis Society – Wisconsin Chapter

1120 James Drive, Suite A

Hartland, WI 53029

262-369-4400 Voice

800-242-3358 Toll-free

www.nationalmssociety.org/wig

Advocates and educates people with multiple sclerosis, their families, and the general public.

People First

Marian Center

3195 South Superior Street

Milwaukee, WI 53207

414-483-2546 Voice

888-270-5352 Toll-free

www.peoplefirstwi.org

Statewide self-advocacy organization for people with disabilities.

Rehabilitation For Wisconsin, Inc.

1302 Mendota Street, Suite 200

Madison, WI 53714-1024

608-244-5310

608-244-9097 Fax

www.rfw.org

A statewide association of community rehabilitation programs providing employment and community living services to people with disabilities.

Wisconsin Association of the Deaf

519 Heatherstone Ridge

Sun Prairie, WI 53590

608-825-9791 Voice/TTY

www.wi-deaf.org

Advocates for civil rights of the deaf and hard of hearing, including legal, employment, educational rights; provides information, referral, education and training.

Wisconsin Coalition for Advocacy

16 N. Carroll Street, Suite 400

Madison, WI 53703

608-267-0214 Voice/TTY

800-928-8778 Toll-free

6737 Washington Street, Suite 3230

Milwaukee, WI 53214

414-773-4646 Voice/TTY

800-708-3034 Toll-free

801 Hammond Avenue

Rice Lake, WI 54868

715-736-1232 Voice/TTY

877-338-3724 Toll-free

www.w-c-a.org

Nonprofit agency providing protection and advocacy for people with disabilities throughout the state of Wisconsin.

Wisconsin Council for the Blind

754 Williamson Street
Madison, WI 53703
608-255-1166 Voice
800-783-5213 Toll-free
www.wcblind.org

Provides services to people who are blind or visually impaired and education to the public.

Wisconsin Council on Developmental Disabilities

201 West Washington Avenue, Suite 110
Madison, WI 53703
608-266-7826 Voice
608-266-6660 TTY
www.wcdd.org

Advocates for adequate and appropriate supports on behalf of individuals with developmental disabilities and improvements in the disability service system.

Wisconsin Department of Workforce Development

201 E. Washington Ave.
Madison, WI 53207
608-266-3131 Voice
www.dwd.state.wi.us
www.wisconsinjobcenter.org

The Department's primary responsibilities include providing job services, training and employment assistance to people looking for work, at the same time as it works with employers on finding the necessary workers to fill current job openings. A wide variety of programs can be found, including securing jobs for the disabled.

Wisconsin Centers for Independent Living

www.wisilc.org/partners.html

Eight independent living centers around the state promote the rights of people with disabilities to live and work independently.

WisTech

Office of Independence and Employment Initiatives
1 W. Wilson Street, Room 1151
Post Office Box 7851
Madison, WI 53707-7851

608/266-8905 Voice
608/267-9880 TTY
608/266-3386 Fax

<http://dhfs.wisconsin.gov/disabilities/wistech/>

WisTech provides information on selecting, funding, installing and using assistive technology.

Relay System, Real Time Captioning Captioning and Hearing Interpreters**Wisconsin Relay System**

Call 711 to access the Wisconsin Relay System
800-283-9877 Customer Service TTY, VCO (voice carry over)
800-395-9877 Customer Service Voice
www.hamiltonrelay.com -- click on "Wisconsin"

Wisconsin Office for the Deaf and Hard of Hearing Regional Offices

There are five regional offices in Wisconsin, please visit www.dhfs.wisconsin.gov/sensory for more information.

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