Hiring with the Americans with Disabilities Act (ADA) Amendments Act (ADAAA) in Mind
Hiring with the ADA(AA) in Mind

- ADA(AA) Regulations
- Disabilities Defined
- When Discussing Disabilities
- Disability Etiquette
Hiring with ADAAA in Mind

**ADA 1990 Regulation**

- Made it illegal to discriminate against a qualified person with a disability in the private sector and in state and local governments.

- Made it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

- Required that employers reasonably accommodate the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless doing so would impose an undue hardship on the operation of the employer's business.
ADAAA 2008 Regulation

- Emphasized that the definition of disability be construed in favor of broad coverage of individuals to the maximum extent permitted by the terms of the ADA and not require extensive analysis.
  1. Revises the terms “substantially limits”
  2. Expands the definition of “major life activities” (MLA)
  3. Provides that an impairment that is episodic or in remission is a disability if it would substantially limit a MLA
  4. Provides that mitigating measures shall not be considered in assessing whether an individual has a disability (excluding ordinary eyeglasses or contacts)
  5. Changed the definition of “regarded as” – an applicant or employee who is subjected to an action prohibited by the ADA because of a perceived or actual impairment will meet the “regarded as” definition of a disability
Disabilities Defined

- A physical or mental impairment that substantially limits one or more major life activities;

- A record of such an impairment;

- Being regarded as having such an impairment.

- Need not prevent, or significantly or severely restrict, performance of a major life activity (MLA) to be “substantially limiting.”
Major Life Activities

- Major bodily functions
- Caring for oneself
- Performing manual tasks
- Seeing
- Hearing
- Eating
- Sleeping
- Walking
- Standing
- Lifting
- Bending
- Speaking
- Breathing
- Learning
- Reading
- Concentrating
- Thinking
- Communicating
- Sitting
- Reaching
- Interacting with others
- Working
When Discussing Disabilities

Affirmative Phrases

• Person with an intellectual, cognitive, developmental disability
• Person who is blind; person who is visually impaired
• Person with a disability
• Person who is deaf
• Person who is hard of hearing
• Person who has multiple sclerosis

Negative Phrases

• Retarded, mentally defective, or special
• The blind
• The disabled; handicapped
• The deaf; deaf and dumb
• Suffers a hearing loss
• Afflicted by MS
When Discussing Disabilities

Affirmative Phrases

• Person with epilepsy; person with a seizure disorder
• Person who uses a wheelchair
• Person with a physical disability; physically disabled
• Unable to speak; uses synthetic speech
• Person with psychiatric disability
• Person who is successful, productive

Negative Phrases

• Epileptic
• Confined or restricted to a wheelchair
• Crippled; lame; deformed
• Dumb; mute
• Crazy; nuts
• Has overcome his/her disability; is courageous (when it implies the person has courage because of having a disability)
Disability Etiquette

• Blind or Visually Impaired

• Deaf or Hard of Hearing

• Speech Impairments

• Mobility Impairments

• General Tips
Blind or Visually Impaired

- Speak to the individual when you approach him or her.
- When conversing in a group, remember to identify yourself and the person to whom you are speaking. Tell the individual when you are leaving.
- Do not attempt to lead the individual without first asking; allow the person to hold your arm and control his or her own movements.
- Never touch or distract a service dog without first asking the owner.
- Be descriptive when giving directions; verbally give the person information that is visually obvious to individuals who can see. For example, if you are approaching steps, mention how many steps.
- If you are offering a seat, gently place the individual's hand on the back or arm of the chair so that the person can locate the seat.
Deaf or Hard of Hearing

- Gain the person’s attention before starting a conversation (i.e. tap the person gently on the shoulder or arm).
- Look directly at the individual, face the light, speak clearly, in a normal tone of voice, and keep your hands away from your face. Use short, simple sentences. Avoid smoking or chewing gum.
- When an interpreter is in play, speak directly to the individual who is deaf or hard of hearing – not the interpreter.
Speech Impairments

- If you do not understand something the individual says, do not pretend that you do. Ask the individual to repeat what he or she has said and then repeat it back.
- Try to ask questions that require only short answers or a nod of the head.
- Do not speak for the individual or attempt to finish her or his sentences.
- If you are having difficulty understanding the individual, consider writing as an alternative means of communication, but first ask the individual if this is acceptable.
Mobility Impairment

• If possible, put yourself at the wheelchair users eye-level.
• Do not lean on a wheelchair or any other assistive device.
• Never patronize people who use wheelchairs by patting them on the head or shoulder.
• Do not assume the individual wants to be pushed, ask first.
General Tips

- When introduced to a person with a disability, it is appropriate 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.

- Relax. Don’t be embarrassed if you happen to use common expressions such as “see you later,” “did you hear about that?” that seem to relate to a person’s disability.

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

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Acceptable Affirmative Phrases for Discussing Disabilities, October 13, 2009