

AMERICANS WITH
DISABILITIES ACT



LEARNING OBJECTIVES



By the end of this course, you will be able to:

- Define the Americans with Disabilities Act
- Identify Resources for LBCC Colleagues and Students Who May Have a Disability and Need Reasonable Accommodations
- Identify the Interactive Process and What it Would Look Like in Real-World Scenarios
- Illustrate the Process on How to Request Accommodations for Participating in College Events
- Describe the Steps a Supervisor Should Take When an Employee Requests an Accommodation

WHAT IS THE ADA?



- The Americans with Disabilities Act (ADA) is a civil rights law that was enacted on July 26, 1990. This law prohibits employment discrimination for qualified individuals with disabilities who work for:
 - State Government
 - Local Government
 - Private Employers with 15+ employees
- Civil rights, by their very nature, focus on the needs and rights of individuals; they are built on the belief that all individuals, regardless of their circumstances, are entitled to equal treatment in American society.
- Civil rights laws are different from other types of laws and regulations. Civil rights laws tend to be fact-specific, determined on a case-by-case basis, and are often more subjective than objective.
- **Each part of the ADA must be applied on an individualized, fact-specific, case-by-case basis.**

HISTORY OF THE ADA



- The **Architectural Barriers Act of 1968** was the first federal law addressing civil rights for people with disabilities. It requires buildings constructed by the federal government or with federal funding be accessible to people with disabilities. The law resulted in the first set of standards for the removal of architectural barriers: The Uniform Federal Accessibility Standards (UFAS).
- The **Rehabilitation Act of 1973** was the first federal law to prohibit discrimination against people with disabilities. It requires that federally funded programs be accessible to people with disabilities and that federal employers provide reasonable accommodations for their employees with disabilities. Much of the terminology in the Rehabilitation Act was later used in the ADA.
- In 1975, legislation was passed establishing the rights of students with disabilities to a free, appropriate public education in the most integrated setting possible. Now known as the **Individuals with Disabilities Education Act (IDEA)**, it sets forth a process where parents and schools work together to design individualized education plans (IEPs) for students with disabilities.

HISTORY OF THE ADA



- In 1986, the **Air Carrier Access Act (ACAA)** was passed to ensure access to air travel by people with disabilities. The ACAA was passed in response to a Supreme Court decision that found that the Rehabilitation Act did not apply to air travel.
- The **Fair Housing Act** was amended in 1988 to prohibit housing discrimination on the basis of disability. As passed in 1968, it prohibited discrimination based on race, color, religion, sex, familial status, and national origin. Its coverage includes private housing, housing that receives federal financial assistance, and State and local government housing. Discrimination in any aspect of selling or renting housing because of disability is prohibited. There are requirements for new construction and for making reasonable accommodations for persons with disabilities in housing.
- As you recall, the ADA was passed in 1990. Eight years later in 1998, an amendment to **Section 508 of the Rehabilitation Act** required increased access to electronic and information technology for people with disabilities. This law provided for changes in federal purchasing of information technology and increased access to federal Internet sites.

CLASSIFYING A QUALIFIED PERSON WITH A DISABILITY



- Under the ADA, you have a disability if you have a physical or mental impairment that substantially limits a major life activity such as hearing, seeing, speaking, walking, breathing, performing manual tasks, caring for oneself, learning or working.
- The ADA also protects you if you have a history of such a disability, or if an employer believes that you have such a disability, even if you don't.
- To be protected by the ADA, a person must:
 - Have a disability
 - Have a history or record of the disability, or;
 - Be perceived by others as having a disability

CLASSIFYING A QUALIFIED PERSON WITH A DISABILITY



- Examples of a physical or mental impairment can include, but not limited to, the following:
 - Diabetes
 - Blindness
 - Deafness
 - Cancer
 - Autism
 - Obsessive-Compulsive Disorder
 - Partially or Completely Missing Limbs
 - Mobility Impairments Requiring the Use of a Wheelchair
 - HIV/AIDS
 - Bipolar Disorder
 - Major Depression
 - Multiple Sclerosis
 - Intellectual Disability

CLASSIFYING A QUALIFIED PERSON WITH A DISABILITY



- Under the ADA, a physical or mental impairment does not include:
 - Simple physical characteristics
 - Examples: eye or hair color, left-handedness.
 - Normal deviations in height, weight, or strength.
 - Common personality traits
 - Examples: poor judgment, quick temper or irresponsible behavior.
- A qualified individual with a disability is someone who:
 - Meets the skill, education, and experience requirements of the position to which they're applying for; and
 - Can perform the essential functions or basic duties of the job, with or without a reasonable accommodation
- Thus, if an individual with a disability is not qualified for a position despite possible reasonable accommodations, the ADA does not require that an employer hire or retain that individual even if the person's inability to do the job is caused by his or her disability.

EMPLOYMENT PRACTICES COVERED BY ADA



The ADA makes it unlawful to discriminate in all employment practices such as:

- Recruitment
- Employment Separation
- Hiring
- Training
- Job Assignments
- Promotions
- Pay
- Benefits
- Lay off
- Leave
- All other employment related activities

It is unlawful for an employer to retaliate against you for asserting your rights under the ADA. The Act also protects you if you are a victim of discrimination because of your family, business, social or other relationship or association with an individual with a disability.

ADA'S 3 MAIN OBJECTIVES



1. Counter Myths & Stereotypes

- The ADA was designed to counter myths and stereotypes about people with disabilities and replace traditional notions about disability. The emphasis is on empowerment and individual rights.
- The ADA encourages:
 - Covered entities to focus on the abilities of people with disabilities.
 - Encourages employers to look at people with disabilities as valuable parts of the workforce.
 - State and local government leaders to see people with disabilities as contributing members of a community.
- The ADA even covers people without disabilities who are unfairly "regarded as" having a disability. Congress acknowledged that although an individual may have an impairment that does not in fact substantially limit a major life activity, the reaction of others may prove just as disabling.

ADA'S 3 MAIN OBJECTIVES



2. Remove Segregation & Isolation

- The ADA was designed to remove the barriers that segregated and isolated people with disabilities by:
 - Providing telecommunications relay services (TRS) to help people with hearing and speech impairments communicate better with others.
 - Removing architectural barriers by installing ramps, elevators and accessible parking spaces to make buildings more welcoming and accessible to all visitors.
 - Requiring reasonable accommodation in employment settings to help ensure that people with disabilities can compete in the workplace.
- The ADA also specifically requires that programs and services for people with disabilities be offered in the "most integrated setting possible".

ADA'S 3 MAIN OBJECTIVES



3. Provide Accommodations

- Most civil rights laws prohibit discrimination and provide mechanisms for enforcement. The ADA goes one step further by requiring covered entities to provide the accommodations, within reason, that people with disabilities need in order to have equal opportunity to participate and benefit from goods and services offered to the general public.
- Covered entities include private employers with 15 employees or more, public employers, state and local governments, and places of public accommodations (private entities that provide goods and services to the public). This requirement is broad and varied, and takes into account the administrative and financial resources of the covered entity.
 - Employers with 15 or more employees must provide "reasonable accommodations" for qualified employees with disabilities to allow them equal opportunity to participate in the job application process, perform the essential functions of the job, or enjoy the benefits and privileges of employment. These could include making existing facilities accessible, altering a work schedule, purchasing assistive technology products, or job reassignment or restructuring.
 - Other covered entities must make reasonable changes to policies and programs to accommodate persons with disabilities, as well as provide auxiliary aids and services, such as sign language interpreters, to ensure effective communication with people with disabilities.

HOW THE ADA SUPPORTS ORGS LIKE LBCC



Notable Highlights:

- LBCC provides American Sign Language (ASL) interpretation for students who are Deaf or Hard of Hearing. This ensures that the student is provided the most equitable access to course content.
- LBCC provides Braille transcription for students who have a visual impairment including complete blindness.
- LBCC provides accessible furniture within the classroom. This is done by universal design and accommodation. Many of our LBCC classrooms feature height adjustable desks designed for individuals who for various reasons may not be able to sit for long periods of time, or who have the need to alter between standing and sitting.
- LBCC provides alternate media and assistive technology to assist students. For example, if a student has a learning disability, and they require to listen to their textbooks or course materials, DSPS will transfer their physical textbook or course materials into a digital copy that is compatible with Kurzweil 3000, an assistive technology program that includes a read aloud feature.
- LBCC provides extra time on examinations for individuals with a number of qualifying disabilities.

HOW THE ADA SUPPORTS ORGS LIKE LBCC



- The ADA supports Long Beach City College by ensuring equal communication access using the requesting individual's preferred mode of communication.
- For example, having a qualified American Sign Language Interpreter present and/or access to accurate captioning by way of a Real Time captioning transcriber.
 - Using the individual's preferred mode of communication is strongly considered.

THE INTERACTIVE PROCESS EXPLAINED



- Once the employer is made known, or reasonably should have known, of a qualified individual's physical or mental limitations, the employer must communicate with the applicant or employee to determine if there is a reasonable accommodation the employer can provide, absent undue hardship, to overcome those limitations.
- On the job, employers often want to know whether they must ask employees if they need accommodations. The accommodation process most often begins when an employee requests an adjustment because of a medical issue; generally it is an employee's responsibility to let the employer know that an accommodation is needed. However, employers are allowed to ask if an accommodation is needed under certain circumstances.

THE INTERACTIVE PROCESS EXPLAINED



- Supervisors may only ask whether or not an employee needs an accommodation when:
 1. The employee has an obvious or known disability, and
 2. The supervisor or colleagues have a reasonable belief that the employee may need an accommodation because of the disability.
- The interactive process is simply the ongoing conversation between the supervisor and the candidate or employee. This productive dialogue needs to accomplish **two purposes**:
 1. Provide the supervisor with the information necessary to make the workplace adjustment consistent with the commitment to equal opportunity, and
 2. Demonstrate the supervisor engaged in a good faith effort to resolve the workplace challenge with the employee.

THE INTERACTIVE PROCESS EXPLAINED



As the employer/supervisor in this dialogue, it's important to create a safe and comfortable space.

Below are some ideas for how to communicate throughout this process:

- "How can we help here?"
- "Is there any type of assistance that might enable you to perform your job functions?"
- "What specifically are the barriers to _____ (accessing the workplace, performing your job functions, etc.)?"
- "Do you have ideas on how to remove those barriers?"

Below are what you should avoid asking throughout this process:

- "So what's going on with you?"
- "Are you sick or something?"
- "Do you have a disability?"
- "Are you sure you still want to work?"
- "Sorry, but we can't help you."

And remember, do not ask about the nature of the disability and do not draw any conclusions.

WHAT IS A REASONABLE ACCOMMODATION?



- A "Reasonable Accommodation" can be classified as, "modifications or adjustments to the work environment, or to the manner or circumstances under which the position is customarily performed that enable a qualified individual with a disability to perform the essential functions of that position or enjoy equal benefits and privileges of employment."
- There are three main categories when it comes to accommodations:
 1. Application Process
 2. Performance of the Essential Functions of the Position
 3. Enjoyment of Equal Benefits and Privileges of Employment

WHAT IS A REASONABLE ACCOMMODATION?



Examples of Accommodations for Job Applications and Interviews

- Conducting the interview in a physically accessible location
- Sign language interpreter for interview
- Modifying tests, training materials, testing time, and/or policy manuals
- Replacing a written test with a more extensive interview
- Allowing a support person during the interview

WHAT IS A REASONABLE ACCOMMODATION?



Examples of Employment Accommodations

- Providing tasks orally instead of in writing
- Providing tasks in writing instead of orally
- Making the workplace accessible to and usable by an employee with a disability
- Restructuring a job (eliminating “marginal tasks”)
- Allowing break periods
- Modifying work schedule
- Unpaid Leave
- Modifying equipment
- Providing qualified readers to accommodate individuals who are blind or may have a vision impairment such as optic neuritis.
- Reassignment to a vacant position
- Providing periods of leave for treatment or recovery
- Allowing service animal
- Working from Home

WHAT IS A REASONABLE ACCOMMODATION?



- Every effort should be made by the Employer to work with the applicant/employee to find a reasonable accommodation. There are, however, three main reasons as to what would make an employer not required to implement a specific accommodation:
 1. Causes an **undue hardship** to the employer
 2. Results in a **direct threat** to the health or safety of the employee or others
 3. It is **unreasonable**
 - Requires reallocation of essential job functions
 - Will not enable the employee to be qualified
 - Lowers production standards applied to all employees
 - Provides personal use items
 - Changes an employee's supervisor
 - Excuses violation of uniformly applied conduct rules
 - Prohibitive cost relative to the district budget (not individual department's budget)

WHAT IS UNDUE HARDSHIP?



- An employer does not have to provide a reasonable accommodation that would cause an "undue hardship" to the employer.
- Generalized conclusions will not suffice to support a claim of undue hardship.
- Instead, undue hardship must be based on an individualized assessment of current circumstances that show that a specific reasonable accommodation would cause significant difficulty or expense.

WHAT IS UNDUE HARDSHIP?



- A determination of undue hardship should be based on several factors, including:
 - the nature and cost of the accommodation needed;
 - the overall financial resources of the facility making the reasonable accommodation; the number of persons employed at this facility; the effect on expenses and resources of the facility;
 - the overall financial resources, size, number of employees, and type and location of facilities of the employer (if the facility involved in the reasonable accommodation is part of a larger entity);
 - the type of operation of the employer, including the structure and functions of the workforce, the geographic separateness, and the administrative or fiscal relationship of the facility involved in making the accommodation to the employer;
 - the impact of the accommodation on the operation of the facility

A SUPERVISOR'S RESPONSIBILITY



- Because there are no magic words to request an accommodation, a manager has certain responsibilities to be aware of with respect to the ADA. A manager should be prepared to:
 - Work with HR to spot ADA issues and work through the interactive accommodation process.
 - Even if the employee hasn't specifically requested an accommodation, the ADA may be implicated if:
 - An employee raises issue of injury, illness or medical condition affecting job performance. For example, "My doctor needs me to take more frequent meal breaks during the day."
 - An employee has excessive absences.
 - An employee is close to exhausting or has run out of all available paid leave.
 - An employee provides a manager with a doctor's note that has long-term, significant or permanent work restrictions.
- A manager should be aware of the ADA implications in these situations and alert HR to receive appropriate assistance. Ultimately, if an employee requests an accommodation or appears to be in need of an accommodation, the responsibility of the manager is to refer the employee to HR for help.

THE STEPS A SUPERVISOR SHOULD TAKE



If an employee requests an accommodation, please take the following steps.

Let the employee know that:

1. You will need to reach out to HR for guidance on the process and HR will be contacting them.
2. The employee will need to provide a medical note supporting the need for an accommodation.
 - The note should state any and all work restrictions and limitations related to the medical disability.
 - Once the note is received, a meeting will be scheduled with HR, the employee, supervisor, and a representative of the employee's choosing, if the employee wishes to have a representative present.
 - During this meeting, the medical note, the work restriction, and any accommodations that can be provided will be discussed.
3. The employee must be able to perform all essential work functions with or without accommodation.
 - If you are unsure as to what is deemed "essential", reach out to HR for guidance
4. Non-essential work duties do not fall within the sphere of accommodation.
5. This entire process is called the interactive process because it is based on the individual needs of an employee and what LBCC may or may not be able to provide and accommodate.

FAQS & COMMON SITUATIONS



Video Captioning

- Any videos used by employees of LBCC for training, marketing, or instructional purposes **must** contain accurate closed captioning subtitles. Videos without subtitles are not permitted.
- For CART service please contact Jaymee Hunt at jhunt@lbcc.edu

FAQS & COMMON SITUATIONS



District Flyers & Events

- All District flyers and marketing for events must contain the italicized script below:

STUDENTS ONLY

If you require Sign language interpreting services or Communication Access Realtime Translation (CART) services please contact [EVENT CONTACT NAME/EVENT CONTACT INFO] and Stephanie Bonales at least 72 hours prior to the event at (562) 938-4918 or sbonales@lbcc.edu.

FACULTY AND STAFF ONLY

If you require sign language interpreting services, please contact [EVENT CONTACT NAME/EVENT CONTACT INFO] and Rebecca Lucas at rlucas@lbcc.edu at least 5 business days prior to the event.

If you require Communication Access Realtime Translation (CART) services, please contact [EVENT CONTACT NAME/EVENT CONTACT INFO] and Jaymee Hunt at cart@lbcc.edu at least 5 business days prior to the event.

Please note requests are based on provider availability

FAQS & COMMON SITUATIONS



District Flyers & Events

- It's important to note that a minimum 3-business day advanced notice is made for anyone requesting accommodations.
- Additionally, a minimum 5-business day advanced notice is required prior to the event start date for anyone requesting Sign Language Interpreting or Communication Access Realtime Translation services.
- Requests are filled based on provider availability and cannot be guaranteed. Every effort will be made to meet requests. It is highly recommended to make requests in as many days of advance as possible to secure a provider's services before they are no longer available.

FAQS & COMMON SITUATIONS



General Questions

- Do I have to disclose to my Supervisor that I have a Disability?
 - No – you are **not required** to disclose your disability **unless** you decide to request a reasonable accommodation.
- As a Department, can we go through outside agencies for Interpreter or Captioning providers ourselves?
 - Yes - DSPPS is a great resource for all departments to utilize in these situations and can help streamline this process, however you are able to set up your own purchase order through outside agencies if you choose to do so.
 - If you choose to go through DSPPS but an LBCC provider is not available, DSPPS will contact an outside agency for coverage.
 - Please note: Obtaining services from an outside agency who is not an LBCC provider will result in a higher price.

FAQS & COMMON SITUATIONS



General Questions

- If I request a Captioning Provider service, can that person also serve as a Sign Language Interpreter for me also?
 - No - Captioning Providers and Sign Language Interpreters must be requested separately. These are completely different services requiring different skillsets. These services are not interchangeable.

SITUATIONAL SCENARIO #1



Instructions

The following prompt is a situational example related to the Americans with Disabilities Act. Read through the example below and proceed to the next slide to view the multiple-choice questions. Decide which you believe are the correct answer and then proceed to the next slide to see if you are correct.

Scenario #1

Jessica, a computer specialist, has fibromyalgia and experiences flare ups of major fatigue and pain affecting her ability to perform manual tasks such as walking and daily household chores.

She has requested a flexible work schedule and the ability to work from home which would require the use of a computer and remote access.

SITUATIONAL SCENARIO #1



Question 1

Are Jessica's requests reasonable?

- Yes
- Likely
- Unlikely
- No

Question 2

1 pts

What if Jessica's job was a line cook? Would her request for a flexible work schedule and ability to work from home be reasonable?

- Yes
- Likely
- No

SITUATIONAL SCENARIO #1



Question 1

1 / 1 pts

Are Jessica's requests reasonable?

Yes

Likely

Assuming that Jessica's role as a computer specialist is one that would allow her to do some work outside the office, the requests here seem reasonable. In this case, a trained evaluator in Human Resources would evaluate the business operations, Jessica's medical needs, the essential functions of Jessica's job to determine whether her requests are reasonable.

Unlikely

No

Question 2

1 / 1 pts

What if Jessica's job was a line cook? Would her request for a flexible work schedule and ability to work from home be reasonable?

Yes

Likely

No

Being present at the job site on a regular basis and schedule are essential job functions for a line cook.

SITUATIONAL SCENARIO #2



Instructions

The following prompt is a situational example related to the Americans with Disabilities Act. Read through the example below and proceed to the next slide to view the multiple-choice questions. Decide which you believe are the correct answer and then proceed to the next slide to see if you are correct.

Scenario #2

Martin, a receptionist, recently lost most use of his right arm. He informs his supervisor that performing certain office tasks takes him much longer with his left hand and asks if there is anything that can be done to assist him. His supervisor replied to Martin that while she sympathizes with his situation, she doesn't have the time to help him come up with different options so he can perform his tasks. She apologizes but tells Martin that he still needs to meet deadlines and perform at the same level.

SITUATIONAL SCENARIO #2



Question 1

Did Martin ask for a reasonable accommodation?

- Yes
- No

Question 2

Did the employer engage in the interactive process?

- Yes
- No

Question 3

Is Martin required to meet the deadlines without a reasonable accommodation in this case?

- Yes
- Maybe
- No

SITUATIONAL SCENARIO #2



Question 1

1 / 1 pts

Did Martin ask for a reasonable accommodation?

Yes

Great job!

No

Question 2

Did the employer engage in the interactive process?

Yes

No

and by not engaging in the interactive process, the employer failed to meet its obligations under the ADA.

Question 3

1 / 1 pts

Is Martin required to meet the deadlines without a reasonable accommodation in this case?

Yes

Maybe

No

Here, the supervisor should have referred Martin to Human Resources to determine what reasonable accommodations could have assisted him in meeting deadlines. If Martin could not meet his deadlines even with reasonable accommodations, then he may no longer be qualified for the job.

SITUATIONAL SCENARIO #3



Instructions

The following prompt is a situational example related to the Americans with Disabilities Act. Read through the example below and proceed to the next slide to view the multiple-choice questions. Decide which you believe are the correct answer and then proceed to the next slide to see if you are correct.

Scenario #2

Jenny, an office administrator, has mobility issues and must use a cane to walk. She currently works on the second floor and is unable to walk up stairs. Jenny notifies her supervisor that the elevator is broken down and that she cannot get to her desk. Her supervisor gives Jenny the option to have her desk temporarily moved to the first floor to allow for her to continue performing her tasks.

SITUATIONAL SCENARIO #3



Question 1

Did Jenny give notice regarding a reasonable accommodation?

- Yes
- No

Question 2

Did the employer engage in the interactive process?

- Yes
- No

Question 3

Is Jenny still expected to get her work done and remain productive?

- Yes
- No

SITUATIONAL SCENARIO #3



Question 1

1 / 1 pts

Did Jenny give notice regarding a reasonable accommodation?

Yes

Great job!

No

Question 2

1 / 1 pts

Did the employer engage in the interactive process?

Yes

By accommodating the employee with the opportunity to set up a temporary office space on the ground floor, the employer engaged in the interactive process and provided a reasonable accommodation.

No

Question 3

1 / 1 pts

Is Jenny still expected to get her work done and remain productive?

Yes

Because a reasonable accommodation was provided, Jenny is still able to get to her new office space to get her work done. If there are other circumstances preventing her from being productive, the interactive process must continue until the employee is reasonably supported.

No

KEY TAKEAWAYS



- The Americans with Disabilities Act (ADA) is a law that prohibits employment discrimination for qualified individuals with disabilities who work for State & Federal Government agencies and private employers with 15+ employees
- Under the ADA, you have a disability if you have a physical or mental impairment that substantially limits a major life activity, if you have a history of such a disability, or if an employer believes that you have such a disability, even if you don't
- A qualified individual with a disability is someone who:
 - Meets the skill, education, and experience requirements of the position to which they're applying for; and
 - Can perform the essential functions or basic duties of the job, with or without a reasonable accommodation
- The interactive process is simply the ongoing conversation between you and the candidate or employee to determine if there is a reasonable accommodation the employer can provide, absent undue hardship, to overcome limitations
- It is the Supervisor's responsibility to take all 5 steps whenever an employee requests an accommodation⁴⁰

ADDITIONAL RESOURCES



For Academic or Faculty inquires, please contact:

- Eric Cornejo (Human Resources Analyst)
 - ecornejo@lbcc.edu
 - (562) 938-4146

For Classified Leaves and CART inquires, please contact:

- Jaymee Hunt (Human Resources Analyst)
 - jhunt@lbcc.edu
 - (562) 938-4323

For Staff and Faculty Interpreter inquires, please contact:

- Rebecca Lucas (Interpreter Services Coordinator)
 - rlucas@lbcc.edu
 - (562) 938-4790

THANK

YOU!