The ADA & The Hiring, Retaining, and Advancing of Employees with Disabilities will begin at 1 PM.

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“We are different, but we share the same human spirit. Perhaps it is human nature that we adapt and survive.”

- Stephen Hawking
• 1 in 4 people have a disability
• The unemployment rate for individuals with disabilities is more than double that of individuals with no disabilities (BLS)
• Over 565,000 Texas employers and 2.6 million small businesses in the state
• Most accommodations avg $500 or less
PRESENTATION ROADMAP

- Breakdown of the Americans With Disabilities Act (ADA), with FAQs
- Best Practices on the Hiring, Retention, and Advancement of Employees with Disabilities
- Live Q&A
2020 marks the 30-year anniversary of the ADA

Signed into law on July 26, 1990
ADA Basics

- Employers must reasonably accommodate employees/applicants with disabilities
  - The disability does not need to be the result of a job-related injury

- “Reasonable accommodation” is anything the employer can change about the job without causing an undue hardship for the business
The Americans with Disabilities Act (ADA) prohibits employers from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment. “

*Texas Workforce Commission Civil Rights Division Fact Sheet*
A qualified individual is someone who can perform the essential functions of the job with or without reasonable accommodation.

Qualified individuals include applicants and employees.

Consider:
- Does the individual meet the prerequisites?
- Can the individual perform the essential functions of the job?
  - If yes → qualified
An individual with a disability is a person who:

- Has a **physical** or **mental** impairment that substantially limits one or more **major life activities**;
- Has a record of impairment; or
- Is regarded as having an impairment
MAJOR LIFE ACTIVITIES

• Major life activities may include “caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.”

• Compare the individual’s ability to perform the job with those who have similar training, skills, and abilities.
WHEN IS THE ADA “ACTIVATED”?

A: From the moment you send out the job application.

- There are no “magic words” for requesting an accommodation
- There is no specific document that must be filled out to make the request “official”
WHAT IS REASONABLE ACCOMMODATION?

Three categories of RA:

1) modifications or adjustments to a job application process;

2) modifications or adjustments to the work environment;

3) modifications or adjustments that enable the employee to enjoy equal benefits and privileges to employment.
Examples:

• Teleworking;
• Making existing facilities accessible;
• Job restructuring;
• Part-time or modified work schedules;
• Acquiring or modifying equipment;
• Changing tests, training materials, or policies;
• Providing qualified readers or interpreters
Q: Are employees with preexisting mental illness or disorders entitled to additional reasonable accommodation if their condition has been exacerbated by the COVID-19 pandemic?

A: Yes.
The interactive process is mandatory and crucial in determining how absences or restrictions will affect business operations.

The process allows employers to:
- Identify barriers to job performance
- Explore options for accommodation
- Show good-faith effort in trying to accommodate
- Determine if an undue hardship exists
WHAT IS UNDUE HARDSHIP?

“Undue Hardship” means significant difficulty or expense and is measured on a case-by-case basis.

- Includes financial difficulty, accommodations that are unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature or operation of the business.
- Think of all reasonable alternatives. Be creative!
Myth #1: Employees with a disability lose ADA protection if they fail to disclose the disability until after they have been hired.
Myth #2: ADA protection only applies to physical disabilities
Cheerful picnics on sunny days are simply part of Pooh Bear's ways.
Myth #3: Accommodations are too costly.
• **Job Accommodation Network (JAN):**
  • 58% of accommodations are free
  • Remainder cost $500.

• **Tax incentives**
  • Disabled Access Credit
  • Work Opportunity Tax Credit
  • Architectural Barrier Removal Tax Deduction

DIRECT BENEFITS OF ACCOMMODATIONS

• Retained a valued employee: 89%
• Increased the employees’ productivity: 70%
• Eliminated costs associated with training a new employee: 59%
• Increased the employee's attendance: 55%
• Increased diversity of the company: 40%
• Saved workers' compensation or other insurance costs: 36%
• Hired a qualified person with a disability: 15%
• Promoted an employee: 10%

• Source: https://askjan.org/topics/costs.cfm
INDIRECT BENEFITS OF ACCOMMODATIONS

• Improved interactions with co-workers: 63%
• Increased overall company morale: 61%
• Increased overall company productivity: 55%
• Increased safety: 46%
• Improved interactions with customers: 44%
• Increased overall company attendance: 41%
• Increased profitability: 29%
• Increased customer base: 18%

• Source: https://askjan.org/topics/costs.cfm
REASONABLE ACCOMMODATION STRATEGIES DURING COVID-19

• Job Accommodation Network (https://askjan.org/) ← FREE RESOURCE!
  • Accommodation Strategies for Returning to Work During The COVID-19 Pandemic:

• Employer Assistance and Resource Network on Disability Inclusion (EARN) ← FREE RESOURCE!
  • For employers seeking to recruit, hire, retain, and advance qualified employees with disabilities
  • https://askearn.org/
Q: What are some basic things I can do to get started?

- Address Diversity, Equity, & Inclusion in Company Mission Statement
- Implement Policies
  - Grievance Procedure
- Ensure job applications, job interviews, and recruitment materials fully accessible
  - Partnership on Employment and Accessible Technology (PEAT): https://www.dol.gov/agencies/odep/resources/peat
- Consider & eliminate potential barriers
Q: What are some best practices for retention?

• Designate an Inclusion Council
• Conduct DE&I Training: https://askearn.org/training-center/
• Reasonably Accommodate
• GO ALL IN
  • Identify and eliminate biases
  • Practice cultural humility
Diversity is having a seat at the table. Inclusion is feeling welcome at that table.

National Organization on Disability: https://www.nod.org/services/tracker-2/
PROMOTION & ADVANCEMENT

• Focus on the skills
• “Diversity by numbers” is not enough
• Train management
TAP INTO EXISTING RESOURCES

- TWC’s Vocational Rehabilitation Services
- EEOC Guide on Recruiting, Hiring, Retaining, and Promoting People with Disabilities
- U.S. Department of Labor’s Office of Disability Employment Policy
- EARN on Disability Inclusion
- Corporation for National & Community Service
- Americans with Disabilities Act National Network
- CareerOneStop
THANK YOU FOR YOUR ATTENTION!

Questions?
TWC Employer Hotline: (800) 832-9394
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