SELF-ADVOCACY: ADA AND PRE-EMPLOYMENT TRANSITION SERVICES (PRE-ETS)

Presented by Carla Waring (ADA NW Center... soon VR) and CJ Webb (VR)
For the Oregon Statewide Transition Conference 2019

OUTCOMES OF THIS SESSION

• Understand the importance of self-advocacy for a student with a disability to communicate, when necessary, to a work supervisor.
• Know how to teach a student how to leverage their rights under Americans with Disability Act (ADA), and how to safely and confidently advocate for themselves.
• Know where to go to get more information about ADA and its purpose.
• Walk away with scenarios to use with students.

VIDEO
PRE-ETS... SELF-ADVOCACY AROUND EMPLOYMENT BASICS

- Learn how to express opinions and speak up
- Know how to request and accept support
- Develop decision making skills
- How does college fit?

WHAT IS SELF-ADVOCACY?

- Strengths
- Goal oriented
- Informed decisions
- Speak for self

HOW TO MAKE THE CONNECTION

Thinking about Pre-Employment Transition Services in a practical way.
SELF-ADVOCACY SKILLS AND ADA

- How does a student leading their IEP connect with their job?
- How does making their own profile lend itself to communicating with their supervisor?
- How does completing a goal translate to a work skill?

LET'S HEAR ABOUT NORTHWEST ADA

ADA – Americans with Disability Act 1990

ADAAA – Americans with Disability Act Amendment Act 2008

ADA NATIONAL NETWORK
ROLE AND STRUCTURE

10 regional ADA Centers

Funded by the National Institute on Disability, Independent Living, & Rehabilitation within the Department of Health and Human Services
The ADA is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public.

WHO AND WHAT DOES THE ADA COVER?

- **Title I - Employment**
- **Title II - State and Local Governments and Transportation**
- **Title III - Public Accommodations (“Businesses”)**
- **Title IV - Telecommunications**

TITLE I - DISABILITY DISCRIMINATION IN EMPLOYMENT

- ADA prohibits private employers 15 or more employees, 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.

What about Oregon?
SO, WHAT DO WE MEAN BY “DISABILITY” UNDER THE ADA?

1. a physical or mental impairment that substantially limits one or more major life activities; or
2. has a record of such an impairment; or
3. is regarded as having such an impairment.
   • Three “Prongs”

“DISABILITIES” UNDER THE ADAAA

Includes, but are not limited to:

• Psychiatric Disabilities
• Cancers
• HIV/AIDS
• Seizure Disorders
• Respiratory Diseases
• Diabetes
• Digestive System Disorders

TITLE I: EMPLOYMENT
Who is a Qualified Individual with a Disability?

✓ Satisfies the skills, experience, education, and other job-related requirements of the position

✓ Can perform essential functions of the job, with or without a reasonable accommodation
WHAT IS MEANT BY A REASONABLE ACCOMMODATION?

- **Modification or adjustment to a job or the work environment** that will enable an applicant or employee with a disability to participate in the application process or to perform **essential job functions**.
- Also includes adjustments to assure that an individual with a disability has rights and privileges in employment equal to those of employees without disabilities.

WHEN TO DISCLOSE A DISABILITY?

- Person with a disability needs a Reasonable Accommodation to help perform the **essential job functions**.
- Any time during the employment process-
  - Before
  - After the offer
  - During employment

WHEN TO DISCLOSE A DISABILITY?

- It's up to the employee when to disclose.
- Some work supports may not require disclosure. However, if the supervisor denies the request, then a person with a disability may need to disclose a disability.
- Performance Issues.
- Employers can ask probing questions if employee is having performance issues but can’t ask about a disability until the person with a disability discloses.
TO REQUEST AN ACCOMMODATION...

- Employee may use “plain English” and need not mention the ADA or use the phrase “reasonable accommodation.”
  However...
- Must indicate that a change or adjustment is needed for a reason related to a medical condition.

**Bottom line:** Need a change in the job… The student HAS TO ASK for the change.

What Must an Employer Do If an Employee Requests a “Reasonable Accommodation?”

**Engage in the Interactive Process:**

1. Recognize an Accommodation Request
2. Gathering Information - if not obvious
   - Medical information only related to accommodation request, not the employee’s full medical history.
3. Explore Accommodation Options
4. Choosing Accommodation
   - Where more than one accommodation would work, the employer may choose the one(s) that is less costly or that is easier to provide.
5. Implementing the Accommodation
What Must an Employer Do If an Employee Requests a “Reasonable Accommodation?”

Engage in the interactive process

✓ Monitor and Maintain the Accommodation
✓ Documenting the process – Keep records (both)
✓ Documentation Collection:
  ▪ ADA Reasonable Accommodation Request are Confidential
  ▪ Kept in separate area from other HR files
✓ Case by case basis
  ▪ Reasonable Accommodation Requests are equal rights not special rights

Is Cost For a Reasonable Accommodation Ever A Consideration?

• An employer doesn’t have to provide an accommodation if doing so would cause undue hardship to the employer.
• Undue hardship means that the accommodation would be too difficult or too expensive to provide, in light of the employer’s size, financial resources, and the needs of the business.

Is Cost For a Reasonable Accommodation Ever A Consideration?

Continued…
• An employer does not have to provide the exact accommodation the employee or job applicant wants.
• If more than one accommodation works, the employer may choose which one to provide.
**HOW DO YOU HAVE THIS CONVERSATION WITH A STUDENT?**

- Remember, the employer has choices too.
- Sometimes a person can buy the accommodation and take it with them.
- Know that a variety of options need to be discussed.
- Does it have to be in writing? Why or why not?

**ACCOMMODATIONS FACTS**

- Over 70% of employees with disabilities never request an accommodation.
- Cost effectiveness: 59% of employers reporting cost data paid nothing.
- 75% of employers report that accommodations are either very effective or extremely effective.

*Job Accommodation Network*
You are the Director of Human Resources at a medium-sized manufacturing plant.

Nancy, warehouse floor supervisor, has come to you about James, warehouse assistant she hired two weeks ago.

Yesterday, James told Nancy he has Attention Deficit Disorder (ADD) and needs a reasonable accommodation for a few of his work tasks.

Nancy now wants your permission to terminate James because he lied during the hiring process by not disclosing his ADD. As the Director of Human Resources, what do you do?
You are April, a 20-year old student, and know from work experiences that you need extra time for lunch (due to needing more time because of Cerebral Palsy) and your tasks written down in simple words with times.

You are only looking for jobs that you like and are good at—Office administration at preferably a medical clinic as you are interested in being a Med Tech.

You have interviews and are wondering if you let them know during the interview or after they hire you. How do you figure this out?
You and your previous supervisor talked about your reasonable accommodation. They sitting down in the AM to talk about the previous day. This help lessen anxiety for today’s work day. It was something the two of you worked out and it was working well.

You have a new supervisor now. Your previous supervisor moved to another state with the same company.

This new supervisor has a different style and doesn’t like the idea of having a daily meeting. He told you that you have been here long enough to know what to do. What do you do?
RESOURCES

➢ Job Accommodation Network https://askjan.org/
  • 800.526.7234
➢ Northwest ADA Center www.nwadacenter.org
  • 800.949.632
  • VP: 425-233-8913
  • Tax Incentives
➢ Equal Employment Opportunity Commission
  http://www.eeoc.gov
  • 800.669.4000
➢ ADA National Network https://adata.org/

➢ ATI – Access Technologies, Inc.
  www.accesstechnologiesinc.org 800-677-7512

➢ Video watched
STATE RESOURCES

➢ Disability Rights Oregon
  • https://droregon.org/

➢ Bureau of Labor & Industry (BOLI) - Civil Rights Division
  • http://www.oregon.gov/boli/crd/Pages/c_crcompl.aspx

➢ Northwest Access Fund http://www.nwaccessfund.org/
  Vehicle modification Information:
  • http://www.nwaccessfund.org/vehicle-modification-resources/
  • info@nwaccessfund.org
  • 1-877-428-8116

THANK YOU!

• Cj Webb,
  Carolyn.Webb@dhsoha.state.or.us
  503.476.4979

• Carla Waring,
  carla.waring@adaanswersnw.com
  503.841.5771