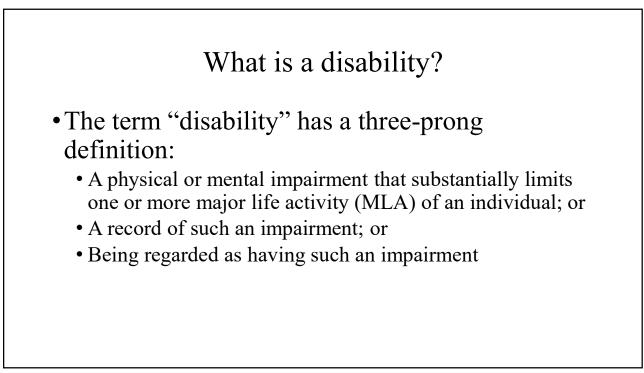
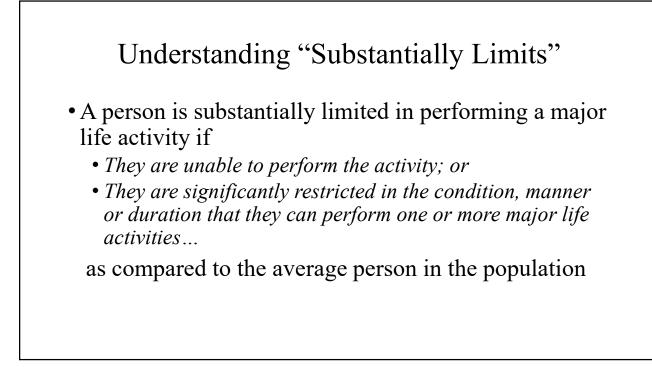
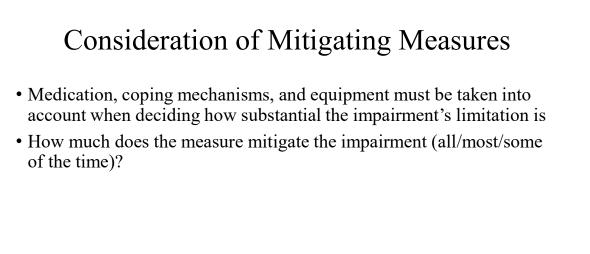
Accessible Computing Seminar

Lecture #3 – Americans wih Disabilities Act





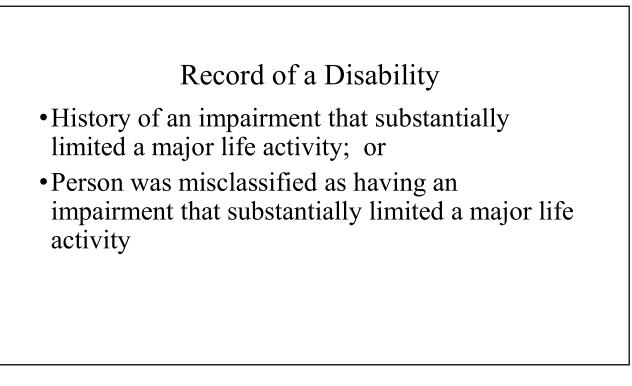


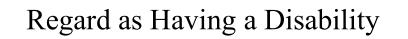


"Major Life Activities"

Examples of major life activities:

- Walking, lifting, performing manual tasks
- Sitting
- Breathing
- Speaking, hearing
- Learning
- Reading
- Personal care/grooming

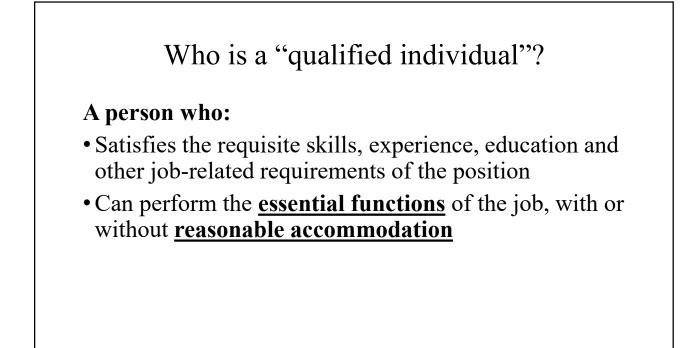


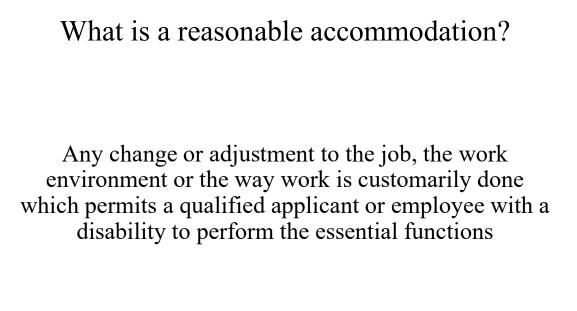


• Has an impairment that does not substantially limit a major life activity, but is treated as if it substantially limits

Title I - Employment

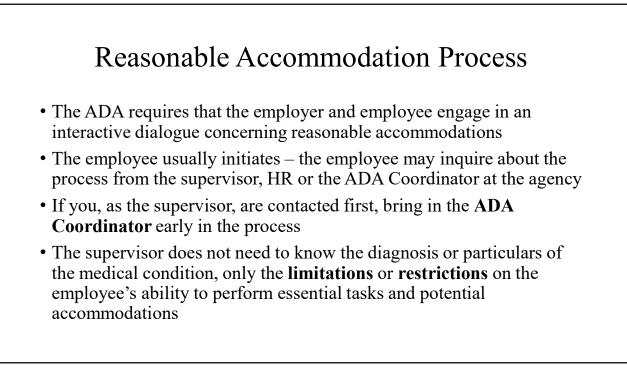
"No employer shall discriminate against any <u>qualified</u> <u>person</u> with a disability in regard to any aspect of employment"





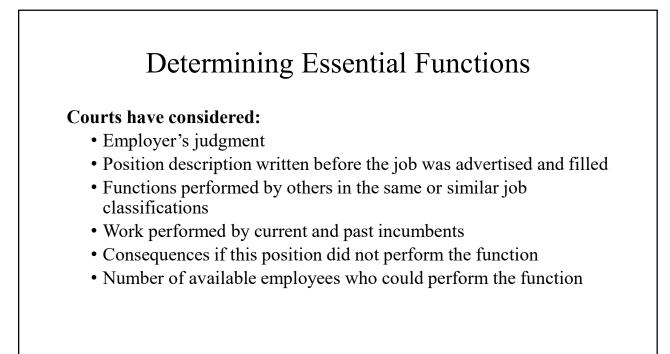
Asking for Reasonable Accommodations

- Does not have to be in writing, be formal, or use any special language
- Does not have to be requested at beginning of employment
- Case-by-case determination: Accommodation can be anything needed to allow <u>this</u> person with <u>this</u> disability to perform the essential functions of <u>this</u> job



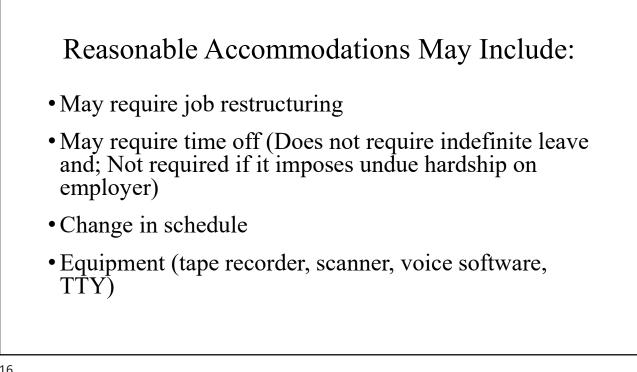
What are "essential functions" of a position?

- Essential functions are those that are fundamental and central to the purpose of the position
- <u>Marginal functions</u> are useful responsibilities, but are not central to the purpose of the position



Types of Reasonable Accommodations

- A "no-tech" accommodation costs little or no money...just time, support and creativity (i.e., additional preparation time for an individual, or a color-coded filing system.)
- A "low-tech" accommodation is any accommodation that is technologically simple or unsophisticated, and readily available in most offices (i.e., a door handle as opposed to a door knob, to accommodate an individual with limited mobility.)
- A "high-tech" accommodation is any accommodation that uses advanced or sophisticated devices (i.e., screen reading software with synthesized speech.)



Reasonable Accommodations May Include *(continued)*:

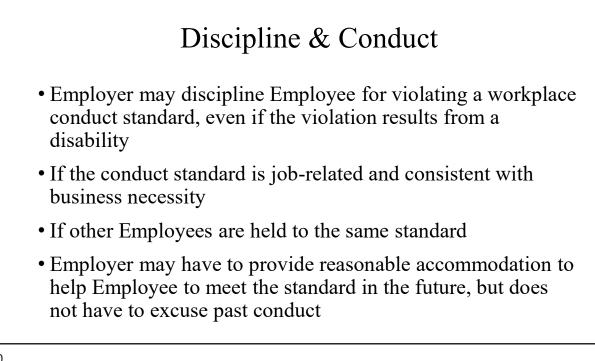
- Change of workplace policy (allow food at workstation, allow service animal, allow personal items at desk)
- Adjusting methods of supervision (communicating assignments in different ways, providing additional training, more guidance...)
- May require allowing working at home
- Provision of a job coach

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Reasonable Accommodations Do Not Involve:

- Medication monitoring
- employer not required to lower production standards
- Does not require provision of personal use items (hearing aids, wheelchairs)
- Does not require change of supervisor
- Employer cannot force Employee to accept an accommodation

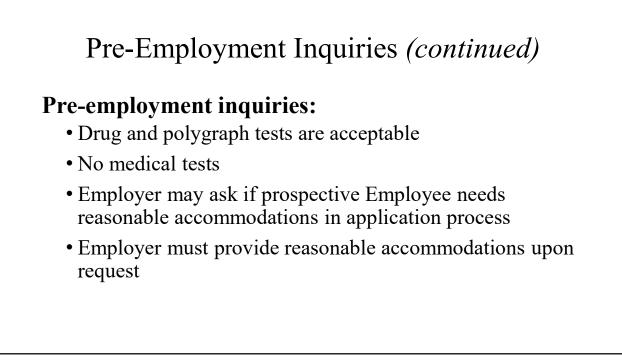
What is "undue hardship"? An employer may decline to provide an accommodation such accommodation is: • Unduly expensive • Extensive • Substantial • Disruptive • Would fundamentally alter the nature or operations of the business

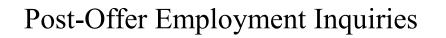


Pre-Employment Inquiries

Pre-Offer...

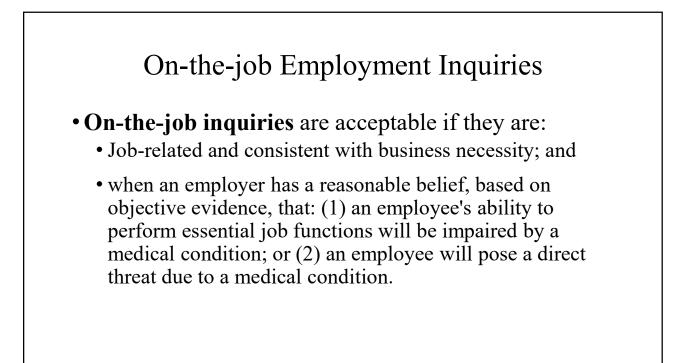
- <u>May ask</u> about education, work history, and required certifications and licenses
- <u>May not ask</u> questions that are directly or indirectly intended to elicit information about a disability
- <u>May ask</u> the person to describe or to demonstrate how the essential tasks of the job would be performed if the disability is obvious or the person has disclosed a disability





Post-Offer...

- <u>May ask</u> disability-related questions and have medical exams if all employees entering that job classification have the same exam/inquiry and the exam/inquiry is job- related
- May ask about a Workers' Compensation history
- May ask about prior sick leave use
- May ask about general health history



Confidentiality

- Medical information must be kept confidential in files separate from personnel files
- Can't tell other Employees about medical condition or about reasonable accommodations.

Exceptions to the rule:

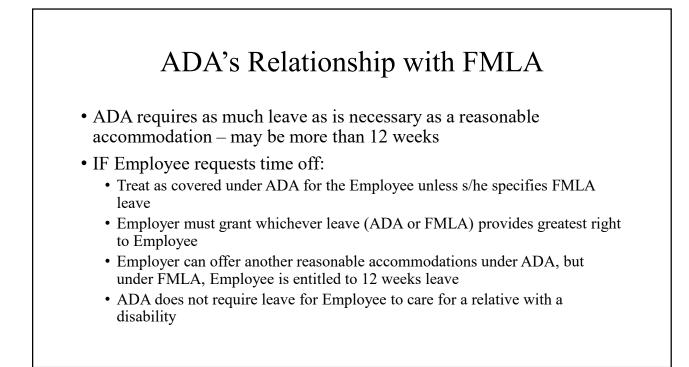
- Can tell supervisors who need to know of the necessary accommodations.
- Can tell safety personnel if Employee may need emergency treatment

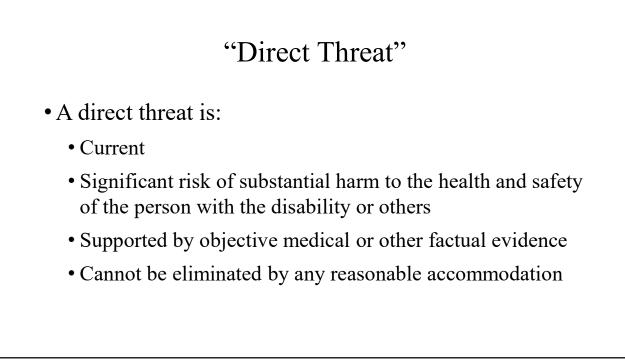
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ADA's Relationship with Family and Medical Leave Act (FMLA)

FMLA applies to "serious health condition", regardless of whether it substantially limits a major life activity, including the following:

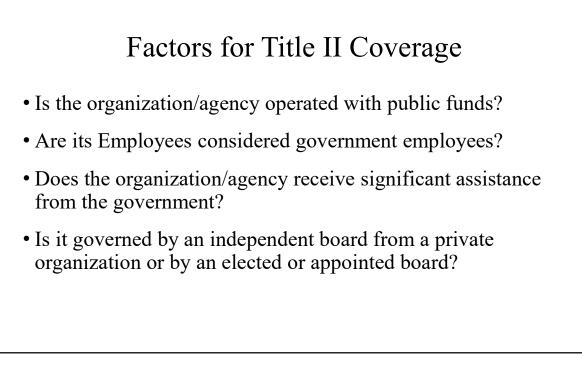
- Inpatient care in hospital;
- Continuing treatment (with incapacity of > 3 consecutive days & continuing treatment);
- Pregnancy;
- Chronic health condition that requires periodic visits to doctor, continues over extended period, and is episodic; and
- Permanent or long-term incapacity





ADA Title II State and Local Government "No qualified individual with a disability shall, by reason of the disability, be excluded from participating in or be denied the benefits of the services, programs or activities provided by a public entity."

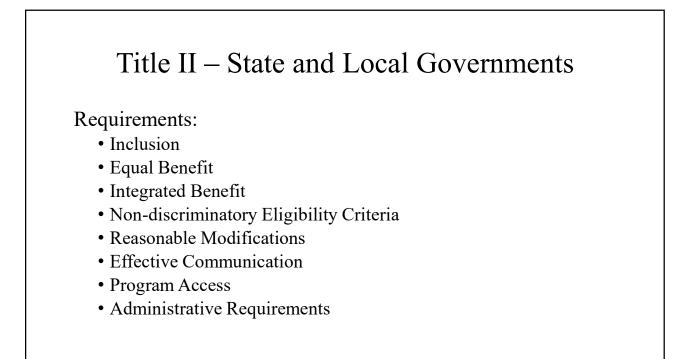
Providing services and programs is the business of State agencies



Title II – State and Local Governments

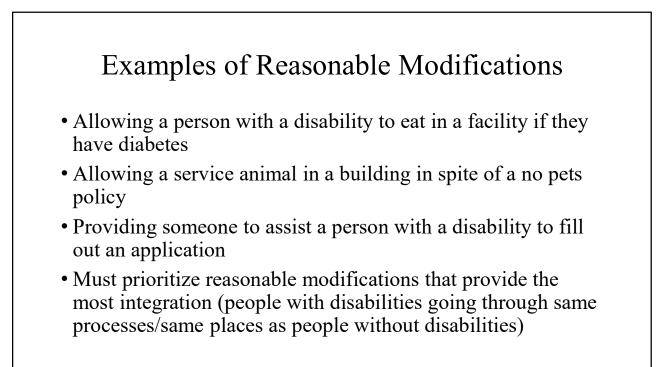
- All programs, services, and activities are covered
- Government Services provided by Contractors
- Public Transportation
- Legislation
- Regulations
- Judicial Activities
- Everything the government entity does



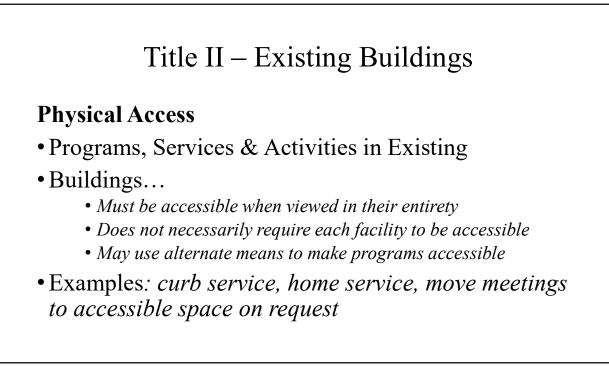


Reasonable Modification of Policy

- Agency must reasonably modify any policy, practice or procedure when necessary to enable people with disabilities to participate
- A reasonable modification can be anything that makes it possible for <u>this</u> person with <u>this</u> disability to participate in this function



Diffective Communication Offective Communication Must provide auxiliary aids and services to make communication with people with disabilities as effective as communication with non-disabled people Examples: *sign language interpreter, TTY, taped text, Braille, reader, note taker...*Individualized standard –communication must be effective for *this* person in *this* situation Cannot surcharge for cost of compliance



Title II – Existing Buildings (continued)

Alterations (after 1/26/92)

- Altered area must be fully accessible (ADA Standards of
- Accessible Design ADAAG) 28 C.F.R. Pt. 36, App. A
- Path of Travel. *If alteration affects a Primary Function Area* must spend additional 20% on accessibility of path of travel to the area (including restrooms, phones, drinking fountains, etc.)

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Title II – New Buildings

New Construction (after /26/1992)

- Must be fully accessible according to ADA Standards of Accessible Design/ ADAAG
- Unless structurally impracticable

Title II – Transportation Transportation Buses... Newly purchased or leased buses must be accessible Para-transit service must be provided to all eligible individuals (cannot navigate public transport system, needs accessible bus, or has a specific impairment related condition) Comparable to public transport system in all service criteria (e.g. service area, response time, fare, service times, capacity constraints)

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Title II – Defenses

Defenses

- Fundamental Alteration of program or service
- Undue Burden (significant expense/difficulty)
- Direct Threat (threat to health/safety of others)

Remedies

- Internal (not mandatory)
- Administrative (not mandatory)
 - Federal agencies (Dept. of Justice)
- Judicial