Office

- Office of Institutional Opportunity and Access (IOA)
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What’s in it for me?

1. Be able to communicate better with people with disabilities in personal and professional life
2. Know how the ADA interacts with HR decisions
3. Create a more accessible, inclusive workplace for people with disabilities
4. Prevent lawsuits
The ADA

The Americans with Disabilities Act was signed into law on July 26, 1990 and is wide-ranging legislation intended to make employment, technology, services and places of public accommodation more accessible to people with disabilities.

- It is divided into five titles: Employment (Title I), Public Services (Title II), Public Accommodations (Title III), Telecommunications (Title IV), Miscellaneous (Title V).
KU’s Commitment to Inclusion

- KU’s charge is to endorse a campus climate that will sustain attention to the Americans with Disabilities Act (ADA) in the spirit in which it was designed and to provide a campus community of inclusiveness.

- Please use “people first language” (e.g., person who uses a wheelchair vs. wheel-chair bound) as a way to ensure respect for all.

- Please check out the *Your Words, Our Image* poster for other ideas.
Disability Cultural Competency 101

- Replace the outdated term, “handicapped,” a word laden with pity, with the term, “accessible.”
A few more disability etiquette tips

1. Speak directly rather than through a companion or sign language interpreter who may be present.
2. Offer to shake hands when introduced. People with limited hand use or an artificial limb can usually shake hands and offering the left hand is an acceptable greeting.
3. If you offer assistance, wait until the offer is accepted. Then listen or ask for instructions.
4. Listen attentively when talking with people who have difficulty speaking and wait for them to finish. If necessary, ask short questions that require short answers, or a nod of the head. Never pretend to understand; instead repeat what you have understood and allow the person to respond.
5. Place yourself at eye level when speaking with someone in a wheelchair or on crutches.
Who is protected under the ADAAA?

Definition of disability:
1. Individual with a physical or mental impairment that substantially limits one or more major life activities;
2. Individual with a record of such an impairment; or,
3. Individual regarded as having such an impairment

The 2008 ADA Amendments Act emphasizes that the definition of “disability” should be interpreted broadly.
Major Life Activities Are:

- Caring for oneself, performing manual tasks, seeing, hearing, **eating**, **sleeping**, walking, standing, lifting, **bending**, speaking, breathing, learning, **reading**, concentrating, thinking, interacting with others, communicating, and working.
Definition includes major bodily functions

- Disability includes major bodily functions, such as functions of the immune system, special sense organs, and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions.
“Easily Considered Disabilities”

- Regulations [Section 1630.2(j)(3)] state that the following impairments can easily be considered a “disability”: deafness, blindness, intellectual disability, partially or completely missing limbs, mobility impairments requiring use of a wheelchair, autism, cancer, cerebral palsy, diabetes, epilepsy, HIV infection, multiple sclerosis, muscular dystrophy, major depressive disorder, bipolar disorder, post-traumatic stress disorder, obsessive-compulsive disorder, and schizophrenia.
Not generally covered

- An individual with a minor, non-chronic condition of short duration generally would not be covered (i.e., a sprain, infection, seasonal allergies)
- Simple physical characteristics (e.g., left handedness)
- Common personality traits (e.g., quick temper, poor judgment)
Record of Impairment

- The second part of the definition includes a person who has a record of such an impairment.
- Example: someone with a history of mental illness. Someone successfully recovered from alcohol addiction.
- Also covers someone who may have been misdiagnosed as having a disability.
Regarded as Having Such an Impairment

- The third part of the definition is “…or is regarded as having such an impairment”.

- This portion of the definition protects individuals who are regarded and treated as though they have a substantially limiting disability, even though they may not have such an impairment.
Example of Regarded as Having an Impairment

- A qualified individual who has severe scarring should not be denied employment because an employer fears the "negative reactions" of others.
Others Who May be Protected Under ADA:

- Other individuals who are protected include:
  - 1) those, such as parents, who have an association with an individual known to have a disability; and,
  - 2) those who are coerced or subjected to retaliation for assisting people with disabilities in asserting their rights under the ADA.
Essential Functions

- Employees must be able to perform the “essential” functions of the job.

- If an individual is qualified to perform the essential job functions except for limitations caused by a disability, the employer must consider whether the individual could perform these functions with a reasonable accommodation.
Accommodations 101

- An accommodation is any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities.

- Each accommodation is considered on a case-by-case basis.

- Accommodations are required in three aspects of employment:
  1. application process;
  2. to perform essential functions of job; and,
  3. to enjoy the benefits and privileges of employment.
Notice of Need for Reasonable Accommodation

- To request an accommodation:
  - individual may use “plain English” and need not mention the ADA or use the phrase “reasonable accommodation”; *but*,
  - must indicate that a change or adjustment is needed for a reason related to a medical condition.
The KU Accommodation Process

- The interactive process starts with IOA.

- Employee fills out Section A of the Request for Reasonable Accommodation Form, which includes basic employee information and the following statement of attestation:
  
  “I am able to perform the essential functions of my job with an accommodation. In providing my response I have reviewed the position description for this position. I am requesting the following accommodations to perform the essential functions of my job.”

- Employee meets with IOA staff.
The KU Accommodation Process

- Employee will provide their health care provider a detailed position description and the “Accommodation Medical Form” including the following questions:
  1. Please describe the employee’s medical condition, diagnosis and/or disability.
  2. Please describe the major life activities that are substantially limited by the medical condition or accompanying treatment.
  3. Please describe how these limitations impact the employee’s ability to perform her/his job (please refer to employee’s job description, if available).
  4. What accommodation(s), if any, would you recommend for this employee?
The KU Accommodation Process

- IOA will interact with the employee and the supervisor to identify potential reasonable accommodations.
- Supervisor fills out Section B on the “Request for Reasonable Accommodation Form:
  “Will accommodation(s) allow the person to perform the essential job duties?”
- Follow-up
Confidentiality

- Information about an employee’s reasonable accommodation must be kept confidential.

- Three exceptions to the confidentiality rule:
  1. Supervisors and managers are informed for work restrictions/accommodations.
  2. Individuals involved in making decisions about accommodations.
Special Cases

- Performance Evaluations
- Pre & Post accommodation
- Evaluating the Effectiveness of accommodations
Quick Quiz

- Must the employee request an accommodation to get one?
Answer:

- Yes.

- If the individual does not request an accommodation, the employer is not obligated to provide one. If a disabled person requests, but cannot suggest, an appropriate accommodation, the employer and the individual should work together to identify one.

- Supervisor may ask employee if he/she needs an accommodation, but do **NOT** discuss disability.
Quick Quiz

• Can an employer refuse to hire an applicant or fire a current employee who is illegally using drugs?
Answer:

- Yes. Individuals who currently engage in the illegal use of drugs are specifically excluded from the definition of a "qualified individual with a disability" protected by the ADA when an action is taken on the basis of their drug use.
Thank you for your time!

Questions?

Call the
Office of Institutional Opportunity and Access (IOA)
864-6414 or IOA@KU.EDU

Speak UP…
We’ll Listen!