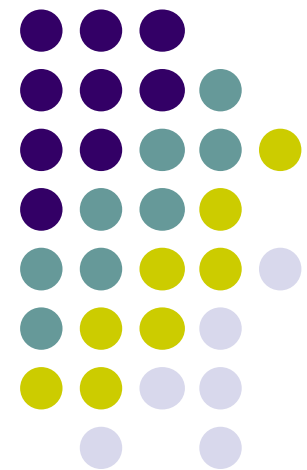


# The ADA and WIOA: Accommodations and Resources

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Maine Department of Labor  
2017



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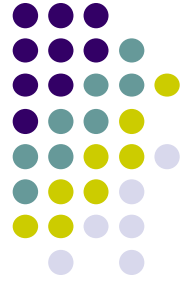
## Outline

- Americans with Disabilities Act of 1990
- Workforce Innovations and Opportunities Act
- Non-discrimination law
- Accommodations and job modifications
- “How-to” resources



## Basics

- Scope, who is covered
- Non-discrimination
- Definition of “disability”
- Individuals with varying needs
- Integrated setting
- Accessibility, modifications, accommodations
- Effective communication
- ADA Titles I, II, and III



Legal citations not as important  
to remember as the  
*underlying ideas*



# Key Elements

## Scope – Who is covered?

- ❖ Employers
- ❖ State and local government
- ❖ Programs and services
- ❖ Public accommodations



## Key Elements – Non-discrimination

*Equal opportunity to participate in programs and activities*

“No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.”

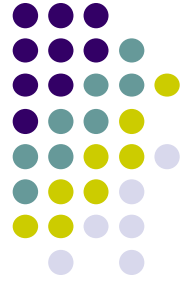


## ADA definition of “disability”

- ADA’s basic three-part definition:

Disability: The term “disability” means, with respect to an **individual** –

- (A) a physical or mental impairment that substantially limits one or more major life activities of such individual;
- (B) a record of such an impairment; or
- (C) being regarded as having such an impairment.

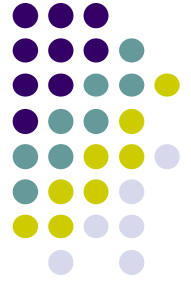


## **ADAAA (2008) and *interpretation* of the definition**

- Congress explicitly stated –  
“The definition of disability in this Act shall be construed in favor of broad coverage of individuals under this Act, to the maximum extent permitted by the terms of this Act.”

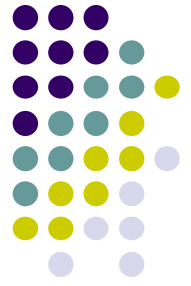


## ADA Key Elements – Individuals Vary



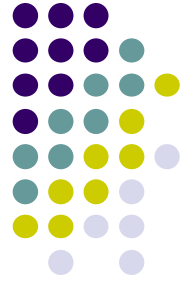
Services and programs must be delivered in the most integrated setting appropriate to the participant's level of need.

Accommodations vary depending upon the needs of the individual applicant or employee. Not all people with disabilities (or even all people with the same disability) will require the same accommodation.



## ADA Key Elements

- Facilities readily accessible to and usable by individuals with disabilities
- Modification of policies, practices, or procedures to ensure non-discrimination
- Effective communication for individuals who have hearing loss or vision impairments
- Limitations
  - Undue hardship
  - Fundamental alteration in the nature of the program



## The ADA's structure

- ADA Title I: applies to employers, employment agencies, others
- ADA Title II: applies to State and local public entities, whether or not they receive federal financial assistance
- ADA Title III: applies to places of public accommodation, 12 categories of private entities open to the public to provide goods and services



## **Non-discrimination law**

- Why do we need a law?
- Sense of history
- Enforcement

## **Disability Related Laws**

- Title VI of the Civil Rights Act of 1964
- Maine Human Rights Act
- Section 504 of the 1973 Rehabilitation Act
- Individuals with Disabilities Education Act
- Fair Housing Act Amendments of 1988
- Americans with Disabilities Act of 1990
- Workforce Investment Act of 1998 and  
Workforce Innovation and Opportunity Act



## Laws and Social Change

- Non-discrimination is about behaviors
- Social change is about attitudes
- Laws provide reasonable balances between freedom/opportunity and burden/hardship
- Individual responsibilities and independence



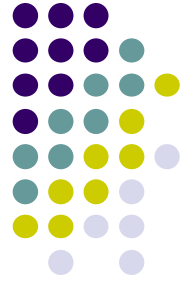






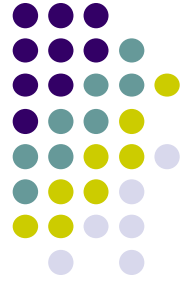
**Questions?**

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## Enforcement Agencies

- **U.S. Department of Justice, Civil Rights Division**
- **Equal Employment Opportunities Commission (EEOC)**
- **Maine Human Rights Commission**  
State House Station #51, Augusta, ME 04333  
**Voice: (207) 624-6290, TTY: (888) 577-6690**  
[www.maine.gov/mhrc/file\\_a\\_charge/index.html](http://www.maine.gov/mhrc/file_a_charge/index.html)



## Change Processes

- Individual complaints and lawsuits
  - Protection against retaliation
  - ADA and EEO Coordinators
- Class actions
- Professional Education
  - Peer responsibility
  - Universal design



## **Accommodations and Job Modifications**

- Covered entities
- Qualified individual
- Accommodating
- Effective communication
- WIOA Mandates
- Resources



## Scope of Coverage

- Employers – Title I, MHRA, etc.
  - all aspects of employment and hiring
- Public programs – Title II, MHRA, etc.
  - “program when viewed in its entirety”
  - all services, activities, and programs offered
  - government services carried out by contractors
- Goods and services – Title III, MHRA, etc.



## ADA Key Elements - “Qualified”

Qualified individual with a disability - an individual with a disability who meets the essential eligibility requirements for the receipt of services or the participation in programs or activities, with or without

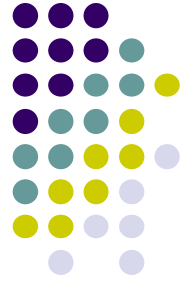
- reasonable modifications to rules, policies, or practices,
- the removal of architectural, communication, or transportation barriers, or
- the provision of auxiliary aids and services.



## “Qualified” Employee

For purposes of employment, *qualified individuals with disabilities* are persons who, with or without reasonable accommodation, can perform the essential functions of the job for which they have applied or have been hired to perform.





## Reasonable Accommodation

An employer is required to make a reasonable accommodation to the known disability of a qualified applicant or employee if it would not impose an “undue hardship” on the operation of the employer’s business.

Reasonable accommodations are adjustments or modifications provided by an employer to enable people with disabilities to enjoy equal employment opportunities.



## Reasonable Accommodations

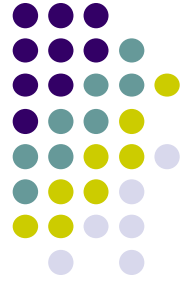
- Making existing facilities used by employees readily accessible to and usable by persons with disabilities.
- Job restructuring, modifying work schedules, reassignment to a vacant position.
- Acquiring or modifying equipment or devices, adjusting or modifying examinations, training materials, or policies, and providing qualified readers or interpreters.



## Key Elements – Interactive Process

- Employers should recognize a request for accommodation.
- Involve the Individual to find the best solution.
- Effectiveness, maintenance, policies, training.

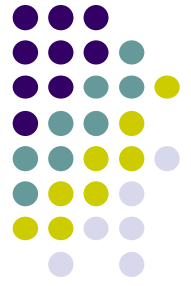
<http://AskJAN.org/media/interactiveprocessfact.doc>



## Good Customer Service

- Leave stereotypes at the door.
- Accessible programs and services begin with “How can I help you?”
- Effective solutions rely on listening.

## ADA Key Elements – Communication



- Communication with people who have sensory disabilities must be as effective as it is for people who do not have disabilities.
- Furnish auxiliary aids and services so individuals who have disabilities have an equal opportunity to participate.
- Give primary consideration to the requests of the individual with a disability as to the selection of an auxiliary aid or service.



## Medical Examinations and Inquiries

Employers may not ask job applicants about the existence, nature, or severity of a disability. Applicants may be asked about their ability to perform specific job functions.

A job offer may be conditioned on the results of a medical examination, but only if the examination is required for all entering employees in similar jobs.

Medical examinations of employees must be job related and consistent with the employer's business needs.



## WIOA Mandates

- Universal access
- Customer centered design
- Youth in Transition – Pre-Employment Transition Services
- Certification of Workforce Development System
- Training and resources
- Partners

# Resources

- Job Accommodation Network - JAN  
<http://askjan.org/>
- USDOL Civil Rights Center  
<http://www.dol.gov/dol/topic/disability/index.htm>
- Office of Disability Employment Policy - ODEP  
<http://www.dol.gov/odep/>
- O\*NET  
<https://www.onetonline.org/>







## More Resources

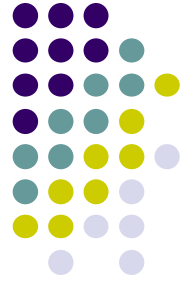
- New England ADA Center  
(800) 949-4232  
and the ADA National Network  
<https://adata.org/ada-training>
- Youth in Transition – Workers with Disabilities  
<http://www.employmentforme.org/youth/>
- Eric Dibner, State Accessibility Coordinator  
(207) 623-7950 voice ~ TTY users call Maine Relay  
[eric.dibner@maine.gov](mailto:eric.dibner@maine.gov)



**Challenges? Questions?**

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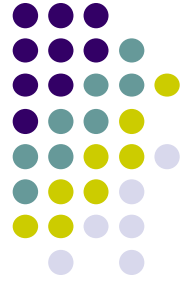
**Thank you.**



## Examples –

1. Modification to services, programs or activities.

Break up a lengthy workshop into two shorter workshops and add additional breaks so person with MS who gets fatigued can attend



## Examples –

2. Provide alternative format materials for an employee.

The employer consults with employee who has limited vision to determine which documents should be available in accessible electronic format and what information can be read aloud or summarized (or ignored).



## Examples –

3. Modify work schedule for worker whose disability is episodic, if reasonable to do so.

The employer and employee (e.g., who has bipolar disorder) identify work-related stressors and arrange essential functions of the job to accommodate worker, without altering the essential functions of the job.