

Seidman Business Review

Volume 6 | Issue 1

Article 8

4-1-2000

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Recommended Citation

Margulis, Stephen T.; McKendall, Marie; and Jiang, James J. (2000) "Do West Michigan Managers Know the ADA?," *Seidman Business Review*: Vol. 6: Iss. 1, Article 8.
Available at: <http://scholarworks.gvsu.edu/sbr/vol6/iss1/8>

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Do West Michigan Managers Know the ADA?

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The Americans with Disabilities Act (ADA) is federal civil rights legislation designed to extend equal opportunities to people with disabilities. The ADA addresses five areas; Title I focuses on employment and the workplace. Title I requires employment decisions for otherwise qualified disabled applicants and employees to be nondiscriminatory. It also requires reasonable accommodation of applicants and employees with disabilities as long as such accommodation does not result in undue hardship for the employer. Finally, it extends anti-discrimination protection to anyone who must care for someone with a disability.

The ADA protects approximately 43 million disabled Americans and requires enforcement by an estimated 666,000 private sector employers as well as all levels of government employers (Kuykendall, 1993). Despite its relatively recent passage, the ADA has resulted in much litigation (Verespej, 1994), and discrimination based on disability now represents over 20% of filed discrimination claims each year. Moreover, lower courts have been holding both organizations and managers personally liable for discriminatory employment decisions (e.g., McMorris, 1995).

Are employers and managers familiar with the ADA? Although there is much information available to help manage the vagueness and complexity of the ADA (e.g., O'Donnell, et al., 1994), we found only two studies that assessed how knowledgeable managers are with the requirements of the ADA. The Electronic Industries Foundation (1992) interviewed managers responsible for learning about the ADA just after final regulations of the ADA were released. Managers were asked which of 18 conditions qualified as disabilities under the ADA; they averaged 66% correct answers. Kuykendall (1993) interviewed facility managers who were closely involved in ADA compliance activities. She asked them nine questions about public accommodations and services provided by private organizations. Over half the respondents correctly answered seven questions; five of those seven were correctly answered by at least 74% of the respondents. Because these studies are so different, we cannot generalize about what managers know about the ADA. However, we would expect the managers in these studies, because they were involved in ADA activities, to be relatively well informed about the ADA (Ross, 1988).

The present study further explores managers' knowledge of both general and specific provisions of the ADA's Title I. We developed a questionnaire that asked managers about various provisions of the ADA, including the meanings of "disability," "qualified," and "undue hardship;" what does or does not qualify as a disability; requirements about reasonable accommodation; employer inquiries about disabilities; legal remedies for violations; and the organization size requirement. Our questionnaire was

completed by 143 managers in MBA programs at two regional Midwestern universities; 86% were from western Michigan. Summaries of the best and least known provisions of the ADA are in Table 1.

ADA Provision	Managers who answered correctly
1. Requirement to not discriminate against otherwise qualified disabled	71%
2. Definition of "otherwise qualified"	69%
3. Understanding of essential vs. nonessential job duties	68%
4. Requirement to provide reasonable accommodation	64%
5. Requirement that non-work areas be assessable	60%
6. Organizational size requirement for applicability of ADA	11%
7. A recovered alcoholic or drug addict as disabled	11%
8. When an employer can first ask about or test for disabilities	9%
9. A person with severe facial scarring as disabled	8%
10. Non-discrimination requirement for people who must care for a person with a disability	7%
11. A recovered person with a history of cancer as disabled	6%

Table 1: Items with the highest and lowest percent correct responses

Overall, the managers knew one in three answers (33.9%). Some provisions were better known than others. Respondents knew best the key general provisions of Title I: employers must not discriminate against qualified, disabled individuals (#1), the determinants of being qualified (#2, 3), and the reasonable accommodation requirement (#4). They also knew that the ADA applies to non-work areas (#5). We have often found the top four provisions discussed in business-oriented articles on Title I.

By comparison, the six least known aspects of Title I are specific provisions that probably are not intuitively obvious. Pre-employment inquiries about disabilities (#8) have been sufficiently problematic to have prompted the Equal Employment

Opportunity Commission to issue new guidelines (Rubis, 1995). What qualifies as a disability is not necessarily obvious, and there has been enough confusion about this that the EPA has recently tried to better explain what constitutes a disability. Consistent with this, three of the five least known items were about what qualifies as a disability (#7, 9, 11).

Because employers and managers have been held legally liable for personnel decisions affecting ADA-covered employees and applicants, managers should ensure that they are ADA-literate so they can effectively comply with the ADA. However, our West Michigan managers are not as knowledgeable as they should or could be, especially about the act's more specific provisions. Their overall level of knowledge (33.9%) was lower than the levels reported by the Electronic Industries Foundation [EIF] (1992) and Kuykendall (1993). The differences in knowledge may reflect differences among questionnaires. The EIF questionnaire only addressed qualifying disabilities; Kuykendall focused on Title III issues; ours focused on Title I and was broad in coverage. The differences also may reflect the greater involvement in ADA issues by the managers in the EIF and Kuykendall studies (Ross, 1988). Unfortunately, we did not ask our managers about their ADA responsibilities or training at work. Nevertheless, the EIF and Kuykendall studies and Ross (1988) suggest that increasing a manager's concern about or involvement with the ADA might be an effective organizational strategy for increasing managers' knowledge of the ADA.

In summary, this is the first relatively large scale study of managers' knowledge of Title I provisions of the ADA. Our sample of managers correctly answered about one in three items. They were relatively knowledgeable about general, key requirements of the ADA but were less knowledgeable about less obvious, more specific Title I provisions. Yet, these are the things they must know if they are to make non-discriminatory decisions. Given managers' potential legal liability for their human resource decisions affecting applicants and employees covered by the ADA, they must learn about the ADA in order to effectively comply with it.

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A comprehensive disk of practical ADA information and resources for businesses, made available through Michigan Rehabilitation Services/MDCD, is available through Seidman Business Services. Contact Carol Lopucki at 771-6693.