

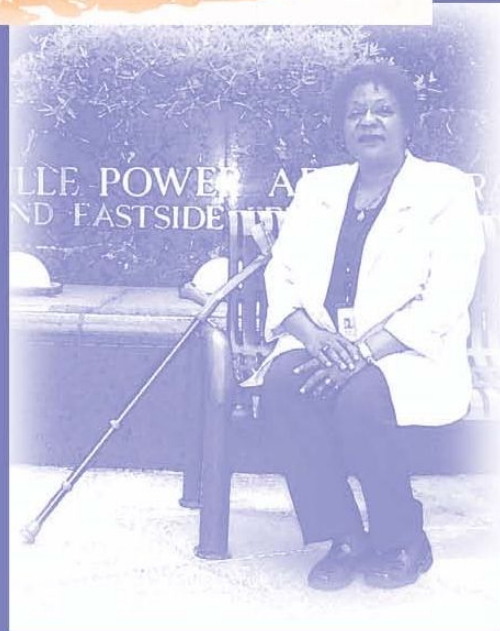


Oregon Business  
Leadership Network  
presents:



# flexAbility

## 2008 Toolkit



Resources and strategies to help Oregon businesses recruit, employ and retain people with disabilities

## *2008 flexAbility Toolkit*

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# Section 1

# Introduction



## **Welcome to the 2008 edition of the *FlexAbility Manual!***

You are reading an extraordinary resource. One of the keys to success in business is the implementation of strategic recruitment, hiring, and retention practices designed to produce a diverse workforce. Yet many Oregon business sectors face the challenge of staying on the cutting edge and striving to recruit and retain a highly skilled workforce.

There are more than 400,000 people of working age with disabilities living in Oregon. Many of these individuals have degrees, years of experience, and transferable skills. They want jobs where they can excel and build careers. This manual and the OBLN itself is focused on making that happen from the business side of the equation, opening more doors to jobs and careers. Businesses report that the biggest barrier to hiring and retaining people with disabilities is lack of information about disability, and worry that accommodation is expensive. The manual before you addresses many of these key issues.

For workers with disabilities, accommodation can be as simple as raising the height of a table for wheelchair access or making a web presence friendlier for those using electronic screen readers. Other accommodations can be more complicated and require a more in-depth, interactive assessment, or arranging for the assistance of a job coach for a period of time. The average cost of 98% of all accommodations is less than \$600!

Whether the accommodation is small or extensive, the resources exist in Oregon to help employers make the transition to an inclusive workplace. And the rewards of hiring people with disabilities can bring greater success to a business.

## **Founding business opportunity on diversity**

We applaud business leaders, such as you, who share a commitment to tapping the important skilled labor pool of qualified people with disabilities.

Hiring and accommodating people with disabilities makes great business sense while at the same time opening opportunities to the people with disabilities who are our family members, friends, and coworkers.

## **The Oregon Business Leadership Network (OBLN) and your business**

The OBLN is a statewide consortium of employers committed to the bottom line benefits of creating disability-friendly workspaces and customer places. We have partnered with state and national experts in the Oregon Office of Vocational Rehabilitation Services, Oregon Commission for the Blind, ADA Info Oregon, and the Job Accommodation Network to prepare this manual. It is a wealth of information to help large and small businesses take important steps toward inclusiveness in the workplace. The OBLN provides access to a network of employers around the state and nation, who are serious about creating a top quality workforce that includes people with disabilities. The OBLN organizes regular business forums to share information and network with other businesses to improve hiring, retaining, recruiting, and promoting return to work for employees with disabilities. We also work with business and our partners to organize hiring opportunities will skilled job seekers at career fairs, live resume events, and will soon provide resume posting.

I hope that you are excited as we by what you see in the manual and at our clearinghouse at [www.obln.org](http://www.obln.org) and will want to join us. OBLN members enjoy our monthly e-magazine and invitations to events. To learn more, or sign up on-line, visit *our website and look for “join now.”* We look forward to meeting you.

Sincerely,

*Jilma Meneses, J.D.*

Jilma Meneses, President, OBLN Board of Directors  
Director, Risk Management  
Oregon Health & Science University

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# Oregon

Theodore R. Kulongoski, Governor

**Department of Human Services**  
Children, Adults and Families Division  
Office of Vocational Rehabilitation Services  
500 Summer St. NE, E-87  
Salem, OR 97301  
Voice: (503) 945-5880  
FAX: (503) 947-5025  
TTY: 1-866-801-0130  
Toll Free: 1-877-277-0513

Dear Employer,

Welcome to the flexAbility 2008 Toolkit. Thank you for your interest in employing Oregonians with disabilities.

It has been our pleasure to collaborate with the Oregon Business Leadership Network in updating the 2004 Toolkit for Oregon employers. We hope that it provides you with beneficial information and assists you in supporting incumbent employees with disabilities, as well as in the hiring and training of new employees.

Regardless of the strength of the economy, employers are faced with the challenge of finding skilled, dedicated workers. Trained and qualified Oregonians with disabilities are an untapped resource for business. Now is the time to tap into key community resources and access this labor pool.

Oregon's Office of Vocational Rehabilitation Services (OVRs) is a state and federally funded program that works in partnership with the community and with businesses to develop employment opportunities for people who have disabilities. Along with the Oregon Commission for the Blind (OCB) and our other workforce partners, the services of OVRs provide benefits to Oregonians and the Oregon economy. Individuals with disabilities obtain competitive employment including youth transitioning from school and employers have access to qualified applicants.

OVRs and OCB offices are located in communities throughout Oregon and we welcome the opportunity to be your community resource. We look forward to working with you to meet your workforce needs.

Sincerely,

Stephaine Parrish Taylor,  
Administrator

*"Assisting People to Become Independent, Healthy and Safe"*

**An Equal Opportunity Employer**  
2008 flexAbility Toolkit



# Acknowledgments

Many thanks to the OBLN **2008 FlexAbility Toolkit Workgroup** who together produced the latest edition of this manual.

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We also wish to acknowledge the many public domain information sources cited in the *FlexAbility Toolkit*, including the U.S. Department of Labor, Office of Disability Employment Policy (ODEP) ([www.dol.gov/odep](http://www.dol.gov/odep)). A list of ODEP fact sheets can be found at [www.dol.gov/odep/pubs/publicat.htm](http://www.dol.gov/odep/pubs/publicat.htm).

The original Oregon employer Toolkit grew out of the 2001 FlexAbility Employer Conference sponsored by Nike. Its second edition was developed for the 2003 FlexAbility Employer Conference sponsored by *Oregon Business Magazine*. The third 2004 *FlexAbility Toolkit* was part of celebrating the OBLN as it became a not-for-profit organization. The 4<sup>th</sup> edition is a collaboration of the OBLN and its public partners.

We welcome your comments, feedback, and suggestions. Contact the OBLN via [www.obln.org](http://www.obln.org) or at [lucy.baker@obln.org](mailto:lucy.baker@obln.org).

The OBLN *FlexAbility Toolkit* was developed with resources provided by Oregon Department Human Services/Oregon Vocational Rehabilitation Services. It is not intended as a substitute for legal advice or as an authoritative interpretation of laws and policies. The *Toolkit* provides an overview of various issues and provides the reader with a list of resources. The laws, policies, and information described in the 2008 *FlexAbility Toolkit* may change at any time. See the Resource Guide and contacts listed within sections of this manual to download up-to-date information.

You are encouraged to download, distribute, and duplicate this manual. We appreciate, though it is not required, to attribute [www.obln.org](http://www.obln.org).



# Oregon Business Leadership Network

*Oregon's Business Forum on **disability** and inclusion*



**2009 Tapping Fresh Talent  
Career Fair**  
*Lloyd DoubleTree, Portland, OR  
October 29, 2009*



**Live Resume Events**  
*Nov 13, 2008 Salem  
Jan 15, 2009 Milwaukie  
Salem 2009: Feb 12, May 14,  
Aug 13 & Nov 12*

**Diversity Events:**  
*Interactive Forums with  
Steve Hanamura*



## **Education Events:**

- *Serving Customers with Disabilities*
- *Reaching Out & Expanding Your Market*
- *About Hidden Disabilities; Legal, Practical, and Human Issues*
- *Accessible Technology in the Workplace*
- *Accessible Websites*
- *Communicating Respectively and Effectively with People with Disabilities*



To register for OBLN events email:  
[obln.events@obln.org](mailto:obln.events@obln.org)



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4134 N Vancouver Ave, Suite 400J, Portland, OR 97217 503-281-1424 Fax: 503-953-8089

# Oregon Business Leadership Network

As an Oregon business committed to the inclusion of qualified people with disabilities in the competitive workplace, we support effective recruitment/hiring/retention/return-to-work/accommodation/ and cost effective strategies for people with disabilities.

## Affiliate Registration Form

Name: \_\_\_\_\_

Company: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number: \_\_\_\_\_

Fax number: \_\_\_\_\_

Email: \_\_\_\_\_

Company Web Site: \_\_\_\_\_

Our main purpose in becoming affiliated with the OBLN is

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\_\_\_\_\_

Thank you! Please return your registration form to:

Oregon Business Leadership Network  
4134 N. Vancouver Avenue, Suite 304  
Portland OR 97217  
Fax: (503) 335-6165  
Phone: (503) 281-1424

## Section 2 A matter of respect

### **Just what is an “attitudinal barrier?”** (PHOTO HERE)

People with disabilities face many obstacles every day—from physical challenges in gaining access to buildings or transportation to systemic barriers to employment and civic programs. Often, the most difficult obstacles to overcome are the attitudes they and other people harbor regarding disabilities and those who possess them. Whether born of ignorance, fear, misunderstanding or hate, these attitudes keep people from appreciating and experiencing the full potential of people with disabilities.

Persons with disabilities form the single largest minority group in America. According to 2002 statistics from the U.S. Census Bureau, 49.7 million people older than age five have a disability. This is a ratio of nearly one-in-five U.S. residents. Forty-two percent of Americans 65 and older have a disability. And the more the population ages, the more likely it is that the number of persons with disabilities will increase. The ADA defines “disability” as an impairment that “substantially limits one or more of the major life activities.” Many of these disabilities are “hidden,” such as learning disabilities, psychiatric disabilities, epilepsy, cancer, arthritis, and heart conditions.

#### ***Seeing individuals with disabilities as “different than us.”***

Our society insists on seeing the ways in which a person is different than “the rest of us” rather than viewing that person as a whole. Through society’s lens, we too often focus on the disability rather than the person. We too often treat the disability as if it were the person’s whole life. We don’t really “see” people with disabilities at all.

#### ***Labeling people with disabilities as inferior.***

Our society views people who are impaired with regard to one or more body functions as inferior. We focus on what a person can’t do rather than on his or her abilities, and, in the process, ignore the vast accomplishments of people with disabilities. We don’t expect them to perform up to standard. People with disabilities are often dismissed

as incapable of accomplishing a task and never afforded the opportunity to display their skills.

Many people feel sorry for a person with a disability, offering pity and charity instead of equal opportunity. Or they may expect workers with disabilities to appreciate the opportunity to work instead of assuming, as they do for themselves, the right to equal pay, equal benefits, equal opportunity, and equal access to workplace amenities.

***Resenting the advantages given to people with disabilities.***

Conversely, many people believe individuals with disabilities are given unfair advantages, such as easier work requirements, mistaking different means for accomplishing tasks as special treatment. These people do not know that the Americans with Disabilities Act (ADA) does not require special privileges for people with disabilities, just equal opportunities.

***Patronizing people with disabilities.***

Negative attitudes can carry over into the work place where they become pervasive barriers to employment for people with disabilities and to their contributions to society. We patronize people with disabilities, relegating them to low-skill, low paying jobs or setting different, often lower standards that tend to alienate co-workers.

In fact, people with quadriplegia can drive cars and teach children. People who are blind or visually impaired can tell time on a watch and work in museums. People who are deaf can coach baseball and play musical instruments. People with developmental disabilities can and do supervise others and maintain strong work ethics.

But when someone with a disability clearly excels at what he or she does, we consider that person a phenomenon—exceptional and courageous, rather than hard-working. We do not allow for the fact that most people with disabilities have skills that can accommodate for their impairment in the workplace and refuse to see the ways in which a person with a disability can achieve the same ends with accommodations as a person without a similar disability—the lawyer who has a solid grasp of law and uses Kurzweil reader technology to complete her research for a case; the rancher who cares for his cattle using a feeder system using a rod from the cab; the stocker in the

factory who packages the proper number of items in each bin using a counting device.

### ***Stereotyping people with disabilities.***

People assume that an individual's disability negatively affects other senses, abilities, or personality traits. For example, many people shout at people who are blind or visually impaired or don't expect people using wheelchairs to be intelligent or to speak for themselves.

Conversely, many believe that all people who are blind or visually impaired are great musicians or have a keener sense of smell and hearing, that all people with developmental disabilities are innocent and sweet-natured, or that all people with disabilities are sad and bitter. Aside from diminishing the individual and his or her abilities, such prejudice can set too high or too low a standard for individuals who are merely human.

### ***Ignoring or segregating people with disabilities.***

Many people avoid individuals with disabilities as a means of averting their own discomfort about difference. They are sometimes concerned that that will say the wrong thing; so they say nothing at all to people with disabilities. Additionally, being in the presence of a person with a disability can raise their fears about vulnerability and loss. Segregating people with disabilities into separate workgroups with separate supervisors is often considered efficient or necessary, or sometimes certain kinds of work are considered "perfect" for people with certain types of disabilities. Think again. Mainstream jobs and robust career paths are well within the capabilities and goals of most people with disabilities. Segregation is limiting to all of us.

## **Dispelling myths about people with disabilities**

The major barriers to achievement for people with disabilities are attitudinal barriers, stereotypical thinking, and assumptions about what people can do and can't do. The truth is that the range of ability of persons within any disability group is enormous. We need to get rid of our stereotypical images and view each individual as an individual. Listed below are the kinds of assumptions that can be barriers to employment for persons with disabilities.

**Assumption:** A person with a developmental disability cannot be trained to perform a job as well as an employee without a disability.

**Fact:** More than two-thirds of the 4,000 participants in Pizza Hut, Inc.'s "Jobs Plus Program" are persons with developmental disabilities. The current turnover rate among these employees with disabilities is a modest 20 percent compared to the 150 percent turnover rate of employees without disabilities.

**Assumption:** An individual with a psychiatric disability cannot work in a stressful environment where tight timelines have to be met.

**Fact:** All individuals perceive stress differently and responses to stress vary. Some individuals with psychiatric disabilities can perform effectively in jobs that require specific timelines and structure.

**Assumption:** A person with a developmental disability and difficulty with fine motor control is unlikely to be able to handle complex operations on the production line of a manufacturing plant.

**Fact:** A person with this combination of functional limitations was hired for a production line job. The job involved labeling, filling, capping and packing a liquid product. The only accommodation supplied for the worker was the creation of a plywood jig. The jig enabled the worker to hold the bottle steady for correct labeling.

**Assumption:** People with severe disabilities can't perform a job that involves weight-lifting activities.

**Fact:** A person with cerebral palsy has bench pressed weights in excess of 500 pounds.

**Assumption:** A person who is blind or visually impaired and has a missing right hand cannot perform a job as a machinist.

**Fact:** A worker who lost his vision and right hand in Vietnam persuaded a community college to train him as a machinist. From his first day on the job, he broke production records and caused others to do the same. His only job modification was to move a lever from the right side of the machine to the left.

**Assumption:** It is unlikely that a person whose right leg is amputated six inches above the knee can perform the duties of a warehouseman since these require loading and unloading trucks, standing, lifting, bending and delivering supplies to various sections as needed.

**Fact:** A person with this type of amputation was hired to work in a paper warehouse. He performed the job without any modification. He performed so well that the company moved him to operating heavy equipment, as a log stacker. The company did not have to make any accommodations. He was able to climb ladders and the heavy equipment without any problems.

**Assumption:** There is no way that a person with a disability can compete with the world's best athletes.

**Fact:** It takes a good runner over two hours to run a marathon. A competitive wheelchair racer can complete a marathon in less than one-and-a-half hours. A runner with a double amputation ran the dash in 11.76 seconds, just 1.8 seconds off the world mark.

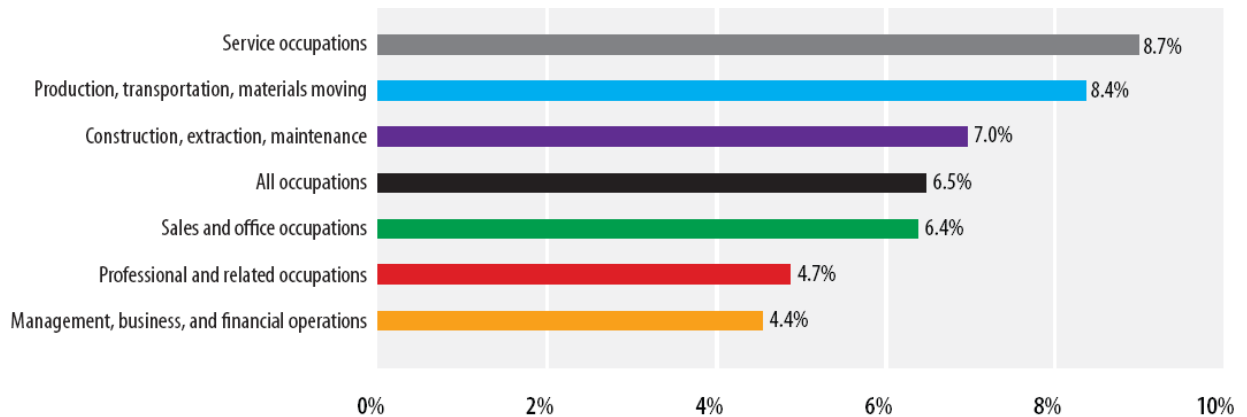
## **The potential pool of workers with disabilities and employment**

Rampant attitudinal barriers hinder people with disabilities from working to their full ability or from trying to enter the workforce. Employers often are unaware of or unwilling to implement the sorts of accommodations that would facilitate their working effectively. Coworkers can be unwelcoming of people with disabilities or resentful of what they perceive to be unequal treatment.

As a result, people with disabilities, who make up 6.5 percent of all working-age people who are employed in the U.S., are the poorest subgroup in American society today. The chart below shows the percentage of people with disabilities across occupational groupings.

The U.S. Department of Labor projects that approximately 18.9 million new jobs will be created between 2004 and 2014. The

category on the chart below with the highest percentage of people with disabilities, "production, transportation and materials moving," is projected to have the lowest number of new jobs (approximately one million).



*Reference: Smith, F.A., & Clark, D.M. 2007. Disability and Occupation. DataNote Series, Data Note XIII. Boston, MA: Institute for Community Inclusion.*

People with disabilities are also consistently underemployed. Although many people with disabilities have a job, the unemployment rate for people with disabilities is unacceptably high. According to a 2007 report by the Rehabilitation Research and Training Center on Disability Demographics and Statistics, the employment rate of working-age people with disabilities in the U.S. was 37.7 percent. This is in contrast to the employment rate of working-age people without disabilities which was 79.7 percent. This represents an “employment gap” of 42 percent! When considering full-time/full-year employment, the employment rate for people with disabilities is 21.7 percent and for people without disabilities it is 56.6 percent.

For these same full-time/full-year groups, the median income for people with disabilities was \$30,000 and for people without disabilities median income is \$37,000.

One-fifth of Americans have disabilities; everyone knows people with disabilities; and anyone can acquire a disability at any time. Everyone has a stake in improving employment for people with disabilities. According to a 2004 survey, although 22 percent of employed people



with disabilities reported encountering job discrimination, this is a dramatic drop from 36 percent in the year 2000.

## **Why adults with disabilities have difficulty finding jobs**

Two federally funded studies give some insight into why the unemployment rate is so high among persons with disabilities and provide data on what employers are doing in the areas of employing and accommodating workers with disabilities. The Urban Institute used information from the Disability Supplement of the National Interview Survey (NHIS-D) to look at barriers to employment for adults with disabilities. Sixteen thousand persons with disabilities were asked about their disability, their work, and their need for accommodation. The researchers used respondents' self-reports of specific activity limitations to define disability. By this definition, the researchers calculated that there were 11.3 million adults age 18 to 64 with disabilities of whom 37 percent were working in 1994—1995.

## **Workplace accommodations**

One-third of non-working persons with disabilities reported the need for some type of accommodations. The other two-thirds could work without accommodations or were unaware of specific accommodations that might make work possible. Both persons with disabilities who were working and those not working stated a need for similar types of accommodations. The most common accommodations cited were:

- Accessible parking or an accessible public transit stop nearby – 19 percent
- Elevator – 17 percent
- Adaptations to work station – 15 percent
- Special work arrangements (reduction in work hours, reduced or part-time hours, job redesign) – 12 percent
- Handrails or ramp – 10.4 percent
- Job coach – 5.6 percent

- Specific office supplies – 4.5 percent
- Personal assistant – 4.0 percent
- Braille, enlarged print, special lighting or audiotape – 2.5 percent
  - Voice synthesizer, TTY, Infrared System, or other technical device – 1.8 percent
- Reader, oral or sign language interpreter – 1.8 percent

*Source: Barriers and Supports for Work among Adults with Disabilities: Results from the NHIS-D;” Pamela Loprest, Elaine Maag, January 2001, The Urban Institute, Washington DC*

## **How employers are doing related to hiring and making accommodations for workers with disabilities**

Cornell University conducted two research initiatives to examine employer practices in response to the employment provisions of Title I of the Americans with Disabilities Act (ADA) and related civil rights legislation. Cornell interviewed by phone a random sample of human resource and equal employment opportunity personnel from the public and private sectors.

These studies show that progress is being made, but much still needs to be done to bring the unemployment rate for persons with disabilities into line with that of the general public.

Key areas that need to be addressed are improving the education and training of persons with disabilities, outreach on the part of the employment community to recruit persons with disabilities, a better understanding of reasonable accommodation, and a concerted effort to break through the attitudinal barrier that is so detrimental to full integration of people with disabilities into the employment arena.

*Source: “Disability Employment Policies and Practices in Private and Federal Sector Organizations,” Susanne M. Bruyere, March 2000, Cornell University, Program on Employment and Disability, School of Industrial and Labor Relations, Extension Division*

## Meeting accommodation and access needs of applicants and employees with disabilities

Listed below are the 11 areas of accommodations and five access areas outlined in the study and the percentage of employers who stated they had made accommodations in these areas.

Accommodation	Private sector percent	Public sector percent
Made facilities accessible	82	93
Had flexible human resources policy	79	93
Restructured jobs/work hours	69	87
Made transportation accommodations	67	86
Provided written job instructions	64	69
Modified work environment	62	93
Modified equipment	59	90
Made reassignment to vacant position	46	58
Provided readers and interpreters	36	79
Changed supervisory methods	35	55
Modified training material	31	49
Types of access provided	Private sector percent	Public sector percent
Wheelchair access	82	95
Time flexibility in test taking	45	39
Communication access for loss of hearing or hard of hearing	43	91

Communication access for people with visual impairment	37	77
Removal of volatile/scented substances	32	48

## Identifying barriers to employment and advancement for people with disabilities

Questions in this and the following area were related to rating ways of reducing employment and advancement barriers, changes made in the workplace to meet the needs of employees with disabilities, and the difficulty in making these changes.

<b>Barriers</b>	<b>Private sector percent</b>	<b>Public sector percent</b>
Lack of related experience	49	53
Lack of required skills/training	39	45
Supervisor knowledge of accommodation	31	34
Attitudes / stereotypes	22	43
Cost of accommodations	16	19
Cost of supervision	12	10
Cost of training	9	11

<b>Effective reduction strategies</b>	<b>Private sector percent</b>	<b>Public sector percent</b>
Visible top management commitment	81	90
Staff training	32	71

Mentoring	59	71
On-site consultation/technical assistance	58	71
Short-term outside assistance	41	43
Employer tax incentives/ special budgets	26	69
<b>Difficulty in making workplace sector change</b>	<b>percent</b>	<b>Private sector percent Public</b>
Changing coworkers'/supervisors' attitudes	32	33
Modifying return-to-work policy	17	11
Creating flexibility in performance	17	15
Change in leave policy	10	8
Adjusting medical policy	7	9
Ensuring equal pay and benefits	2	4

The OBLN web site has examples of employers in Oregon, such as Walgreen's, Kaiser Permanente, Lowe's, Safeway, and others, who have made major changes in their corporate structure around hiring people with disabilities.

## **The potential market of customers with disabilities**

Except for products geared specifically to disability-related needs, this segment of the consumer market has been largely ignored. Only in recent years have advertisers of general merchandise begun to

recognize persons with disabilities as an important market segment controlling over \$1 trillion of buying power.

Clearly this is not in the best interests of either people with disabilities or businesses. A largely untapped consumer market exists, and business has a lucrative window of opportunity to tap into this market by responding to the needs and preferences of people with disabilities.

As more and more individuals with disabilities enter the workforce, the purchasing power of this group will increase. In addition public and private third-party payers, such as veteran service organizations, vocational rehabilitation programs, and the educational system, purchase services, equipment, and/or products for persons with disabilities. Company outreach initiatives need to convey that people with disabilities are valued as customers.

## **Providing quality services to customers with disabilities**

Etiquette considered appropriate when interacting with customers with disabilities is based on respect and courtesy. In most cases, the best way to learn how to accommodate people with disabilities is to ask them directly. Listen and learn from what individuals tell you regarding their needs.

Remember, customers with disabilities will patronize businesses that welcome them, are helpful, are accessible, and provide quality products and/or services at competitive market prices. Some businesses that make a point of reaching out to the community of people with disabilities have a disability-friendly seal on their business window similar to the BBB logo.

## **Marketing strategy**

As with any market, it is important to segment and define the disability market and to utilize a variety of strategies that include both generic and niche marketing. In developing a marketing strategy, perhaps the most important thing to remember is that people with disabilities are individuals with a variety of tastes and needs. They are also the only ones who really know what they need or want.

The following ideas should be considered in a marketing strategy targeting consumers with disabilities:

- Recognize the diversity of the disability market. Do not assume that one size fits all. Select people with a variety of disabilities to test your marketing approach.
- Keep an open mind about what persons with disabilities can or cannot do, want, or need. Advances in technology, rehabilitation, and medicine, coupled with changes in societal attitudes, make many activities previously thought impossible for persons with disabilities possible.
- Define how your market sector can serve people with disabilities.
- Include people with disabilities in your product development.
- Remember that products geared to meet the needs of persons with disabilities often can be marketed to the general at large (e.g., the electric garage opener).
  - Develop simple modifications to make existing services and products user-friendly to persons with disabilities.
  - Test market your products and services with the disability community to measure accessibility and/or usability by persons with different types of disabilities.
  - Develop promotional strategies that target persons with disabilities and their family members as desired customers.
  - Integrate persons with disabilities in your print and television advertising. Use persons with disabilities as models, actors in your commercials, and as spokespersons.
  - Include disability community newspapers, magazines, and newsletters in your print advertising budget.
  - Attend and exhibit at annual consumer disability conferences, as well as disability-related conferences, for

third-party payers and professional organizations.

- Become involved with the disability community by sponsoring and/or participating in a national or local event or project.
- Become an active member of the Oregon Business Leadership Network and participate in local trainings, conferences, and events.

## **Breaking down the barriers to equality for persons with disabilities**

Much still needs to be done to bring the unemployment rate for persons with disabilities in line with that of the general public. Much needs to be done as well to respond to the needs of consumers with disabilities. We are still far from achieving full integration of persons with disabilities into the workforce or into the marketplace.

The Americans with Disabilities Act, other laws, and the efforts of many disability organizations have improved accessibility in buildings, increased access to education, and opened employment opportunities to people with disabilities. However, attitudinal barriers that lead to indifference, ignorance, and illegal discrimination cannot be overcome simply through laws. What is needed is familiarity, getting people with and without disabilities to mingle as coworkers, associates, and social acquaintances so that comfort, respect, and friendship between individuals can develop. As individuals, we need to learn how to communicate and interact with people with disabilities.

## **Communicating with and about people with disabilities**

For decades, persons with disabilities have been identified as their disability first, and as persons, second. Often, persons with disabilities are viewed as being afflicted with or being victims of their disability. In focusing on the disability, an individual's strengths, abilities, skills, and resources are often ignored. In many instances, persons with disabilities are viewed as having neither the capacity nor



the right to express goals and preferences. They are not seen as resourceful and contributing members of society.

Many words and phrases commonly used when discussing persons with disabilities reflect these biases, expressing negative and disparaging attitudes intentionally and unintentionally. Use of the word “normal” makes the unconscious and stigmatizing comparison of “abnormal.”

Positive language empowers. The word *disability* can be used to refer to an attribute of a person and *handicap* to the source of limitations. Sometimes a disability itself may handicap a person, as when a person with one arm is handicapped in playing the violin. However, when the limitation is environmental, as in the case of attitudinal, legal, and architectural barriers, the disability is not handicapping—the environmental factor is. Buildings surrounded by steps and curbs handicap people who require the use of a ramp in gaining access to them. This distinction is important because the environment is frequently overlooked as a major source of limitation, even when it is far more limiting than the disability. *Prejudice handicaps people by denying access to opportunities.*

The guiding principle for non-disabling language is to maintain the integrity of individuals as whole human beings by avoiding language that:

- (a) Implies that a person as a whole is disabled (e.g., disabled person),
- (b) Equates a person with a condition (e.g., epileptic),
- (c) Has superfluous, negative overtones (e.g., stroke victim), or
- (d) Is a slur (e.g., cripple).

Below are examples of negative, stereotypical, and sometimes offensive words and expressions. Also listed are examples of preferred language, which describes a difference without implying a negative judgment.

The specific recommendations are not intended to be all-inclusive. The basic principles apply in the formulation of all non-handicapping language.

## 1. Put people first, not their disability

*Comment.* Preferred expressions avoid the implication that the person as a whole is disabled or defective.

### Problematic

- Disabled person
- Defective child
- Mentally ill person

### Preferred

- Person with (who has) a disability
- Child with a congenital disability
- Child with birth impairment
- Person with mental illness or psychiatric disability

## (Photo)

The most pervasive negative attitude is focusing on a person's disability rather than on a person's abilities.

## 2. Do not label people by their disability

*Comment:* Because the person is not the disability, the two concepts should be separate.

### **Problematic**

- Schizophrenics
- Epileptics
- Amputee
- Paraplegics
- The disabled
- The retarded
- The mentally ill
- The CMI or SPMI

### **Preferred**

- People with schizophrenia
- People with epilepsy
- Person with an amputation
- Individuals with paraplegia
- People with disabilities
- People with developmental disabilities
- People with a mental illness or psychiatric disabilities
- People with long-term, chronic, or serious and persistent mental illness or psychiatric disabilities

### **3. Do not label persons with disabilities as patients or invalids**

*Comment:* These names imply that a person is sick or under a doctor's care. People with disabilities should not be referred to as patients or invalids unless they are currently residing in a hospital.

### **4. Do not overextend the severity of a disability**

*Comment:* Preferred expressions limit the scope of the disability. Even if a person has a particular physical disability, this does not mean that the person is unable to do all physical activities. Similarly, a child with a learning disability or mental retardation does not have difficulty in all areas of learning or development. Chronicity in physical illness often implies a permanent situation, but persons with psychiatric disabilities are able to recover.

#### **Problematic**

- The physical disabled
- The learning disabled
- Retarded adult
- Chronic mental illness

#### **Preferred**

- Individuals with a physical disability
- Children with specific learning disabilities
- Adult with mental retardation
- Long-term or persistent mental illness or psychiatric disability

## 5. Use emotionally neutral expressions

*Comment:* Objectionable expressions have excessive, negative overtones and suggest continued helplessness.

Problematic	Preferred
<ul style="list-style-type: none"><li>• Stroke victim</li><li>• Afflicted with cerebral palsy</li><li>• Suffering from multiple sclerosis</li></ul>	<ul style="list-style-type: none"><li>• Individual who had a stroke</li><li>• Person with cerebral palsy</li><li>• People who have multiple sclerosis</li></ul>

## 6. Emphasize abilities, not limitations

*Comment:* Preferred expressions talk about what a person can do rather than focus on a limiting situation.

Problematic	Preferred
<ul style="list-style-type: none"><li>• Confined to a wheelchair</li><li>• Homebound</li></ul>	<ul style="list-style-type: none"><li>• Uses a wheelchair (for mobility)</li><li>• Person who works at home</li><li>• Child who is taught at home</li></ul>

## 7. Avoid offensive expressions

Problematic	Preferred
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<ul style="list-style-type: none"> <li>• Cripple</li> <li>• Deformed</li> <li>• Mongoloid</li> <li>• Crazy, paranoid, schizo</li> </ul>	<ul style="list-style-type: none"> <li>• Person who has limp</li> <li>• Person with a shortened arm</li> <li>• Child with down syndrome</li> <li>• Person with symptoms of mental illness</li> </ul>
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Adapted from the article “*Guidelines for Using Non-Handicapping Language*”, adapted by the Northwest ADA & IT Center, September 2003, from the original, written by the American Psychological Association’s Committee on Disability Issues in Psychology, April 1992.

## **General tips for communicating with people who have disabilities**

People with disabilities come in all shapes and sizes and have personalities, abilities, interests, needs and preferences. This section offers some concrete tips for interacting in a respectful manner with people who have disabilities whether they are employees or customers.

- Do not assume what that person can or cannot do.
- Talk directly to the person with the disability, not through his or her companion. This applies whether the person has a mobility impairment, a mental impairment, is blind or visually impaired, or is hard of hearing or has a loss of hearing.
- Extend common courtesies. Shake hands or hand over business cards. If the person cannot shake your hand or grasp

your card, she will tell you. (Shaking hands with the left hand is acceptable.)

- If you are having trouble understanding what he is saying, ask the person to repeat himself rather than pretending you understand.
- Offer assistance, but wait until your offer is accepted before you help. Then listen to or ask for instructions.
- Acknowledge to yourself that you are nervous or uncomfortable around people with disabilities. Then focus on the “person” in front of you instead of his or her disability.
- Treat adults as adults. Address people who have disabilities by their first names only when extending the same familiarity to all others.
- Relax. Don’t be embarrassed if you happen to use common expressions such as “See you later,” or “Did you hear about that?” that seem to relate to a person’s disability.
- Don’t be afraid to ask questions when you’re unsure of what to do.

### **Tips for communicating with Individuals who are blind or visually impaired**

- Speak to the individual when you approach him or her.
- State clearly who you are; speak in a normal tone of voice.
- When conversing in a group, remember to identify yourself and the person to whom you are speaking. Have others in the room introduce themselves.
- Never touch or distract a service dog without first asking the owner.

- Tell the individual when you or others in the room are leaving; never leave a person who is blind or visually impaired talking to an empty space.
- Do not attempt to lead the individual without first asking how they prefer to be guided; allow the person to hold your arm and control her or his own movements.
- Be descriptive when giving directions; verbally give the person information that is visually obvious to individuals who can see. For example, if you are approaching steps, mention how many steps.
- Be prepared to read aloud information that is written or ask the person if he or she could use the services of a trained reader.
- When interviewing or meeting with people with vision impairments, ask whether they would prefer a well-lit area. Avoid sharp contrasts of light and dark areas.
- If you are offering a seat, gently place the person's hand on the back or arm of the chair and let her or him sit down by her or himself.
- When dealing with money transactions, tell the person denominations when you count the money he or she is receiving from you.
- Make sure the person has picked up all of her or his possessions before leaving.
- Ask if the person needs assistance signing forms. Offer to guide her or his hand to the appropriate space for signature.
- Offer assistance if the person appears to be having difficulty locating a specific area.

## **Tips for communicating with individuals who are deaf or hard of hearing**

- Gain the person's attention before starting a conversation



(e.g., tap the person gently on the shoulder or arm).

- Look directly at the individual, face the light, speak clearly, in a normal tone of voice, and keep your hands away from your face. Use short, simple sentences. Avoid smoking or chewing gum.
- Identify who you are (e.g., show your name badge).
- If the individual uses a sign language interpreter, speak directly to the person, not the interpreter.
- Ask the person if it would be helpful to communicate by writing or by using a computer terminal.
- If you telephone an individual who is hard of hearing, let the phone ring longer than usual. Speak clearly and be prepared to repeat yourself.
- If you telephone someone who is deaf, dial 711 to use your state's telecommunications relay service. Consideration should also be given to purchasing a TTY.
- Discuss matters that are personal (e.g., financial matters) in a private room to avoid staring or eavesdropping by other people.

## **Tips for communicating with individuals with mobility impairments**

- Put yourself at the wheelchair user's eye level. If possible, sit next to the customer when having a conversation.
- Do not lean on a wheelchair or any other assistive device.
- Never patronize people who use wheelchairs by patting them on the head or shoulder.
- Do not assume the individual wants to be pushed—ask first.
- When scheduling a job interview or meeting, make sure

the location is accessible and that potential barriers such as a step at the threshold or parking will not preclude access.

- Ensure extra maneuvering space and non-slip floor coverings for the safety of a person who uses crutches or a walker.
- Provide a clipboard as a writing surface if counters or reception desks are too high; come around to the customer side of the desk/counter during your interaction.
- Offer assistance if the individual appears to be having difficulty opening a door.
- Make sure there is a clear path of travel.
- If a person uses crutches, a walker, or some other assistive equipment, offer assistance with coats, bags or other belongings.
- Offer a chair if the person will be standing for a long period of time.
- If you telephone the individual, allow the phone to ring longer than usual to allow extra time for the person to reach the telephone.

## **Tips for communicating with individuals with speech impairments**

- If you do not understand something the individual says, do not pretend that you do. Ask the individual to repeat what he or she said and then repeat it back.
- Be patient. Take as much time as necessary.
- Try to ask questions that require only short answers or a nod of the head.
- Concentrate on what the person is saying; concentrate on listening and communicating.
- Avoid barriers like glass partitions and distractions, such

as noisy, public places.

- Do not speak for the individual or attempt to finish her sentences.
- If you are having difficulty understanding the individual, consider writing as an alternative means of communicating, but first ask the individual if this is acceptable.
- If no solution to a communication problem can be worked out between you and the person, ask if there is someone who could interpret on his or her behalf.
- To telephone someone whose speech you cannot readily understand, dial 711 to use Speech to Speech relay service.
- Discuss matters that are personal (e.g., financial matters) in a private room to avoid staring or eavesdropping by other people.

### **Tips for communicating with individuals with cognitive disabilities**

- If you are in a public area with many distractions, consider moving to a quiet or private location.
- Be prepared to repeat what you say, orally or in writing.
- Offer assistance with and/or extra time for completion of forms, understanding written instructions, writing checks, and/or decision-making; wait for the person to accept the offer of assistance; do not “over-assist” or patronize.
- If a person has difficulty reading or writing, he may prefer to take forms home to complete.
- Be patient, flexible, and supportive. Take time to understand the individual and make sure the individual understands you.

***Remember, above all to...***

- Provide access to facilities and services.
- Treat the individual with dignity, respect, and courtesy.
- Listen to the individual.
- Maintain eye contact without staring.
- Offer assistance but do not insist or be offended if your offer is not accepted.
- Ask the person to tell you the best way to help.
- Deal with unfamiliar situations in a calm, professional manner.



## Disability and disability management

Hiring and retaining employees with disabilities has become for many companies a corporate-level initiative with supervisors playing a major role in working with new and existing employees with disabilities. Besides viewing persons with disabilities as a valuable part of their workforce, employers have begun to rethink the role and the importance of the returning worker who has either an occupational or non-occupational injury or illness. This shift is partly the result of working with an aging workforce, partly the need for basic ADA compliance.

The following are eight common misconceptions about workers with disabilities along with tips for supervisors for working with new employees with disabilities and for supporting disability management initiatives.

### Misconceptions and facts

***Misconception: There are very few qualified persons with disabilities compared to those without disabilities for the jobs we have.***

The unemployment rate for persons with disabilities is nearly 69 percent. In the past, many persons born with a disability or those who acquired a disability early in life were not well trained or educated. This is not so today. Advances in education and technology allow persons with disabilities to be trained in every field. The services of vocational rehabilitation help prepare persons with disabilities to compete in the labor market.

Well-trained and educated persons with disabilities are becoming an increasingly important resource for organizations. Studies show that when organizations hire persons with disabilities, these employees have an equal or greater chance of becoming successful employees as persons without disabilities. Supervisors who keep an open mind about the potential capabilities of persons with disabilities increase their chances of selecting the best candidate for a job.

***Misconception: Persons with disabilities require too many changes in the workplace and thereby lower productivity.***

The majority of persons in the workplace with disabilities require no accommodation or modification. Of those who do, most changes are simple, inexpensive, and allow the person with a disability to perform up to production standards and expectations. No one expects that a person with disability should be hired if he or she cannot do the job. Supervisors can learn to utilize organizations and outside resources, such as vocational rehabilitation, to help them modify

jobs when necessary in such a way that production and performance is not an issue.

***Misconception: Persons with disabilities present a difficult supervisory challenge.***

Persons with disabilities should be supervised no differently than anyone else. The only difference is that the disability and potential need for an accommodation must be taken into account. Other than that, the biggest problem supervisors face in supervising persons with disabilities is their reluctance to do so. Supervisors need not assume that a problem a person with disability has on the job has to do with her disability. Supervisors can learn to communicate effectively and without embarrassment with persons with disabilities.

***Misconception: Physical disabilities are easier to deal with than mental or emotional ones.***

Mental and emotional disabilities are usually no more difficult to deal with than physical ones. They seem so mostly because of our misunderstanding and fear. Many emotional or mental disabilities are, like physical impairments, caused by chemical imbalances. Many accommodations for mental or emotional disabilities are the same as for physical impairments, such as a simple change of schedule.

Each disability should be looked at individually and in the context of the person who has it and of the requirements of the job. Supervisors can learn to work just as well with employees with mental or emotional disabilities as they can with persons with physical disabilities and those without disability.

***Misconception: Bringing injured workers back to work before they have recovered completely is more trouble than it is worth.***

Saving workers' compensation costs at the same time as helping the injured employee recover from his or her injury by providing productive work is good for everyone involved. An early or graduated return-to-work program is a vital part of any disability management program. Such programs have reduced the cost of workers' compensation by more than 50 percent in many organizations. Supervisors can learn to become an important part of their organization's disability management program by being creative and supporting a graduated return-to-work effort for injured employees.

***Misconception: Bringing injured workers back before they are 100 percent recovered increases the risk of re-injury.***

On the face of it, this would seem to be common sense. However, just the opposite is true. When an injured employee stays at home and remains inactive, he or she begins to lose muscle tone and stamina. Even after just two to three weeks of reduced activity, the employee who comes back to work may be at greater risk for re-injury than if he or she were allowed to remain at work doing modified assignments. Supervisors can develop graduated return-to-work assignments that can reduce an employee's potential for re-injury and help get that employee back to full duty faster.

***Misconception: I don't have any work that an injured employee can do.***

If a supervisor thinks only in terms of established jobs, this statement might be true. However, supervisors can learn to be creative, creating short-term assignments rather than jobs. The two most important requirements in designing return-to-work assignments are that these assignments be consistent with medical releases and of value to the organization. Supervisors who are creative about identifying such assignments can play an important role in their organization's disability management program.

***Misconception: Return-to-work programs are only for workers injured on the job.***

Older workers represent an important employee population for most organizations. However, retention of these vital workers is among the biggest challenges for employers today. For the older worker, the leading causes of workplace disability are chronic conditions, such as back trouble, arthritis, and heart disease. Supervisors can learn to open up traditional return-to-work programs to employees who experience injuries or illnesses off the job, thereby increasing employee retention and reducing permanent impairment.

Adapted from *30 Ways to Shine as a Supervisor* by Richard Pimentel. Printed with permission by Milt Wright & Associates, Inc. For further information on training, consulting, or publications, contact: 800-626-3939 or [www.miltwright.com](http://www.miltwright.com).

## **Disability-friendly strategies for the workplace**

Employers who include disability issues in corporate diversity policies enrich and enhance workplace benefits. Such benefits include diverse leadership,



innovation, increase in overall morale, and the ability to cast a wider net for recruitment.

## **Oregon models**

Your business leadership network, chamber of commerce, or human resource managers' organization may refer you to local businesses that have active disability programs and employers who like to share good practice models. Four Oregon-based businesses with effective disability-friendly strategies are Intel, Kaiser Permanente, Nike, and Portland General Electric.

The following program descriptions were submitted by the businesses themselves.

### **Intel – Intel Diverse Abilities Network (IDAN)**

#### **Vision**

To help all Intel employees be aware and supportive of people with disabilities. To help Intel be a world-class leader in supporting and integrating people with disabilities into the workforce. To be an employee group with local impact in our communities and global reach in membership, support, and accomplishments.

#### **Mission**

Provide education, support, and outreach to people who have disabilities or want to support others with disabilities.

The Intel Diverse Abilities Network (IDAN) Employee Group is committed to raising employee awareness about disabilities through education, support, and outreach. For employees with disabilities, or those who have family members, friends, or colleagues with disabilities or special needs, IDAN is a resource to turn to for support. One of the newer chartered Intel Employee Groups, IDAN has five chapters with close to 70 active members and is working to increase its membership throughout the Intel community.

The unique health and disability challenges some employees face may range from chronic diseases, such as arthritis, to caring for a family member with a brain injury or raising children with special needs. Intel employees may be among the estimated two million people worldwide who have multiple sclerosis or the 70 million with arthritis, which, according to the Arthritis Foundation, is

the second leading cause of workplace disabilities. A large number of Intel employees have children, some of whom may have Down syndrome, autism, or other severe learning disabilities.

IDAN is open to all employees and provides information and support through seminars, brown bag lunch meetings, speaker events, and local site activities.

## **Kaiser Permanente – People with DisABILITIES Association**

### **Mission**

Our mission is to attract, inspire, and support people with disabilities to achieve their full potential at all levels within the Kaiser Permanente Medical Care Program, thereby enhancing our ability for shared success.

The Kaiser Permanente People with DisABILITIES Association is an organization committed to personal development, multicultural collaboration, and community well being. We believe that by sharing our professional, cultural, and community experiences, we contribute to Kaiser Permanente's continuing leadership role in health care.

### **Our purpose**

- Support and foster a positive employment environment that promotes the appreciation and celebration of the diversity of persons with disabilities.
- Encourage the Kaiser Permanente disabled and non-disabled community relations by bridging the gap and joining the community together as one united through tolerance, education, and understanding.
- Appreciate diversity in the broadest sense through community building.
- Positively impact the Kaiser Permanente-wide community through positive advocacy toward the disabled.
- Remove diversity barriers still remaining in the community through knowledge, consideration, support, awareness, and understanding.
- Achieve cultural competence toward those with disabilities through educational and advocacy efforts.

- Enhance the Kaiser Permanente National Diversity Program by becoming a positive voice for change as it pertains to all people—both disabled and non-disabled.
- Remain a positive voice of change by actively advocating for Kaiser Permanente community parity between disability and non-disability employees.
- Keep abreast of formulating and advocating for legislation pertaining to the disabled community.
- Active membership is open to all program employees and physicians who support the mission and purpose of the association and adhere to its bylaws.

## **Nike – Employee Networks**

### **Mission**

The mission of the Disabled Employee and Friends Network at Nike is “to add value and enrich Nike and the communities in which it operates by promoting the inclusion and full utilization of employees with disabilities.” Nike sponsors a total of six employee networks. In addition to the Disabled Employee Network, we have the African American, Native American, Asian and Pacific Islander, Hispanic/Latino, and Gay Lesbian Bisexual and Transgender Networks.

Each network receives an annual operating budget and develops a business plan for the year. Although each network has its own mission statement, the overall purpose of the networks is to maximize diversity and inclusion at Nike.

The Disabled Employee Network (DEN) meets on a monthly basis at lunchtime. Meetings are open to all employees, and those who are unable to attend in person can attend via phone. All network members and officers are volunteers.

### **Accomplishments**

DEN accomplishments include:

- National Disability Employment Awareness Month activities to increase awareness of disability and the ability of people with disabilities.
- Disability Mentoring Day with Independent Living Resources (ILR).

- ADHD & Epilepsy education brown bags in partnership with Health Promotions.
- The Casey Martin Award ceremony, a corporate program to promote and reward individuals who have made exceptional contributions to the inclusion of people with disabilities in sport. Three members from DEN assist Nike's Community Affairs department in selecting the winner and planning and producing the event.
- A background brochure on disability that highlights our corporate initiatives to increase awareness of disability and the capabilities of individuals who are no longer "temporarily able."
- Partnership between Nike staffing and job developers and Washington County Vocational Rehabilitation.
- Summer sports camp for children with disabilities.
- Ronald McDonald House volunteering.

## **Portland General Electric – Disability Resource Network**

Portland General Electric's Disabilities Resource Network is an employee group made up of employees with disabilities, those with family members with disabilities, and those who are advocates on disability issues. Company-sponsored, the Disabilities Resource Network is a voting member of PGE's larger Advisory Committee on Diversity, a group that advises PGE management on diversity-related issues. The Disabilities Resource Network encourages participation by people with and without disabilities who are concerned about making a difference. Meetings are held the second Thursday of every month. If someone cannot attend in person, a conference call can be set up to include members.

### **Mission**

The mission of the Disabilities Resource Network is to promote an inclusive and supportive environment within PGE for employees who have disabilities and/or who have family members with disabilities.

### **Goals**

- Provide training for PGE managers and employees about

accommodating people with disabilities and creating a more inclusive workplace.

- Encourage the company to take a more active role in recruiting people with disabilities.
- Provide support for employees and family members.
- Continue educating co-workers on disability issues.

## **Accomplishments**

Some accomplishments of the PGE Disabilities Resource Network include:

- “Welcome to My World” interactive training where non-disabled participants “experience” a disability to increase their awareness and appreciation of the life of people with disabilities. More than 25 percent of PGE’s 2,600 employees have taken the three-hour training.
- Incorporation of universal accessibility standards in the development and deployment of PGE’s Internet site.
- Hosting the National Disabilities Mentoring Day annually in Oregon.

## **Strategies for inclusion**

Outlined below are strategies to successfully incorporate persons with disabilities into the workplace.

### **Make a corporate commitment to include persons with disabilities among your stakeholders.**

Is the CEO committed to a disability-friendly workplace? Is there a written document to all staff that affirms this commitment? Do corporate policies, procedures, and practices specifically mention disability? Do persons with disabilities serve on the board? Are employees and customers with disabilities seen in the annual report? Are workers with disabilities employed at all skill levels in the workforce, including senior management positions? Are products or services marketed to customers with disabilities?

CEO commitment means senior leadership embraces disability policies and that the organization “talks the talk and walks the walk.”

## **Educate all staff on disability**

Does new staff orientation include disability awareness training? Are training materials available in alternate formats such as large print, braille, and captioning? Do employees with disabilities serve as mentors for new hires who do not have disabilities?

Providing disability education dispels myths and enables all staff to make sound employment decisions fostering inclusiveness.

## **Providing ongoing information on disability**

Is staff familiar with legislation pertaining to disability? Does staff receive disability information that could be helpful at work, at home, and at school? Is disability information provided routinely in the company newsletter or on a web site? Are disability resources in the community contacted to help injured workers return to the workplace as soon as possible?

Continuing education enables employees to utilize pertinent disability information to resolve everyday family and work life situations.

## **Form a disability support group**

Do employees with disabilities meet to discuss disability employment issues? Does this group have the authority to make recommendations to management? Is staff aware of this group and the contributions it makes to corporate success?

Deliberate corporate support of disability issues encourages all employees to contribute their full work potential to corporate success.

## **Provide accessible facilities and services**

Are buildings, parking areas, workspaces, and communication systems accessible to persons with disabilities?

Accessible facilities and services are more useful for everybody.

## **Accommodate applicants and workers with disabilities**

Is there a central source and budget for implementing accommodations? Are applicants and employees informed that accommodations are available if needed? Are employee success stories that demonstrate improved productivity based on accommodation shared with other employees? Does staff routinely stay abreast of new developments in universal and assistive technology?

An open policy on accommodations allows job candidates and workers with disabilities to demonstrate what they can do.

### **Project a disability-friendly image to attract candidates and customers with disabilities**

Do college recruiters target students with disabilities when making campus calls? Do recruiters search for resumes on disability-related web sites? Are publications directed to persons with disabilities? Are recruiters and other personnel doing a good job serving people with disabilities? Are they establishing working relationships with vocational rehabilitation and other community agencies?

Building relationships with community agencies increases referrals of candidates with disabilities.

Do recruiters regularly attend employment fairs to connect with candidates with disabilities? Do recruiters work with disabled student services offices and target students at colleges such as Gallaudet University and the National Technical Institute for the Deaf? Does senior management promote and sponsor participation in disability mentoring activities?

A diverse workforce includes employees with disabilities.

### **Train and advance workers with disabilities**

Do employees with disabilities routinely participate in employer-sponsored training opportunities? Are employer-sponsored social events (retirements, awards programs) held in accessible locations? If not, has this issue been brought before the Disability Support Group for recommendations? Are procedures in place to promote qualified employees with disabilities to management and supervisory positions?

Employers who “talk the talk and walk the walk” of inclusion in employment promote qualified workers with disabilities to upper management positions.

### **Encourage staff to volunteer in the community**

Is staff encouraged to build relationships during work hours with disability community service organizations? Does staff make regular visits to high schools to inform administrators, teachers, and students (including students with disabilities) about scheduled open houses and job trends in your industry? Are human resource staff instructing students with disabilities about how to set up a scannable resume or serving as mentors to graduating post-secondary students with disabilities to help them with their job search?

Employers who want to make a difference in the disability employment arena are eager to assist tomorrow's workers and job candidates with disabilities find meaningful work.

## Employment checklist for hiring persons with disabilities

### Attitude adjustment

**Don't** assume that persons with disabilities are unemployable.

(PHOTO HERE)

**Don't** assume that persons with disabilities lack the necessary education and training for employment.

**Don't** assume that persons with disabilities do not want to work.

Don't assume that a person with a disability can't do a job due to apparent and non-apparent disabilities.

**Don't** assume that persons who are alcoholics or recovering drug abusers are not covered by the ADA.

**Don't** ask if a person has a disability during an employment interview.

**Don't** assume that certain jobs are more suited to persons with disabilities.

**Don't** assume that a person with a disability can't do a certain job.

**Don't** assume that your current management will need special training to learn how to work with people with disabilities.

**Don't** assume that the cost of accident insurance will increase as a result of hiring a person with a disability.



***Don't*** assume that the work environment will be unsafe if an employee has a disability.

***Don't*** assume that reasonable accommodations are expensive.

***Don't*** speculate or try to imagine how you would perform a specific job if you had an applicant's disability.

***Don't*** make medical judgments.

***Don't*** assume that your workplace is accessible.

***Don't*** hire a person with a disability if that person poses significant risk of substantial harm to the health or safety of the public and there is no reasonable accommodation to reduce the risk or the harm.

***Don't*** hire a person with a disability who is not qualified to perform the essential functions of the job even with a reasonable accommodation.

***Don't*** assume that you have to retain an unqualified employee with a disability.

## **Action checklist**

***Do*** develop a relationship with key resources in your community including Vocational Rehabilitation, the Commission for the Blind, and the Business Leadership Network.

***Do*** learn where to contact and recruit people with disabilities.

***Do*** learn how to communicate with people who have disabilities.

***Do*** ensure that your applications and other company forms do not ask disability-related questions and that they are in formats that are accessible to all persons with disabilities.

***Do*** consider having written job descriptions that identify the essential functions of the job.

***Do*** ensure that requirements for medical examinations comply with the Americans with Disabilities Act (ADA).

**Do** provide reasonable accommodations that the qualified applicant will need to compete for the job.

**Do** treat an individual with a disability the same way you would treat any applicant or employee.

**Do** relax and make the applicant with a disability feel comfortable.

**Do** understand that access includes not only environmental access, but also making forms and your web site accessible to people with visual or cognitive disabilities.

**Do** develop procedures for maintaining and protecting confidential medical records.

**Do** train supervisors about how to make reasonable accommodations.

### **How do I know if my worksite is accessible?**

The following are some questions to keep in mind when determining accessibility:

- Are there designated parking spaces for persons with disabilities that are close to the entrance of the worksite?
- Is there a pathway without abrupt level changes or steps that leads from the parking area to the entrance?
- If ramps are used to provide access, are they appropriately graded and are handrails provided?
- Are doors wide enough (36 inches) for people using wheelchairs? Are they easy to open (e.g. not excessively heavy, with easily grasped handles, or automatic)?
- Is the personnel office in an accessible location?
- Are pathways to the bathroom, water fountain, and public telephone accessible? Can people with disabilities use them?
- Are elevators accessible to all persons with disabilities (e.g., control panels lower than 54 inches from the floor, raised symbols or numbers on the control panels)?

- Is signage appropriate and accessible for persons with visual, learning, and cognitive disabilities? Does it include symbols and graphics)?
- Are written materials available in alternate formats (large print, audio tape, computer disc, braille)?
- Are web sites and electronic documents accessible for people who use screen readers?
- Is there TTY telephone access and is staff familiar with how to use a telephone relay service?
- Does the emergency warning system include both audible and visual alarms?

## **Where and how to look**

With a changing job market—one in which skilled, dedicated workers may be difficult to find—it is important to look everywhere for talent. Recruiting should extend to nontraditional talent pools, including individuals with physical, mental, and communication disabilities. Employers may successfully recruit applicants with disabilities through job announcements, advertisements, and other recruitment notices. Include information on the essential functions of the job. If “good oral skills” are not essential for a position, listing this criterion in a job announcement misrepresents the job and unnecessarily discourages individuals with speech disabilities from applying for that position.

Employers may indicate in job notices that they do not discriminate on the basis of disability. Employers should also make all information about job openings accessible to people with different disabilities. For example, to reach people with visual or other reading disabilities, make job information available via braille, large print, audiotape, and computer disk. Get a TTY (text telephone) and list its number on all your recruitment notices; doing so says your company is sensitive to the needs of people with disabilities.

Join the Business Leadership Network to show your commitment to employing individuals with disabilities and to learn about successful recruitment practices from other businesses.

You can obtain help in reaching the talent pool of people with disabilities from vocational rehabilitation, independent living, social service, workforce, and education agencies that know people with disabilities in careers that coincide with your business needs. You can obtain a list of some of these agencies and

the services and programs they provide by contacting the resources listed at the end of this section and in the resource guide at the back of your *FlexAbility Toolkit*.

When reviewing each agency's services, ask these questions:

1. Does the agency evaluate its job seekers' work potential? If so, how?
2. Does the agency provide skills training? If so, what type?
3. Are there additional incentives for hiring the persons the agency represents (e.g., tax credits or training grants)? If so, how do these work?
4. Does the agency provide on-the-job training? Coaching? Follow-up?
5. Does the agency offer "awareness" training for supervisors and managers? Ask the agency about its placement record, including placements in specific jobs and retention rates.
6. Do the agency's representatives seem to understand my needs as an employer?

Once a relationship is established with one agency, you will find that other agencies with similar services will contact you. Just one successful placement will open other avenues of opportunity.

## **Job analysis: An important employment tool**

All hiring decisions and supervisory evaluations should be made on the basis of objective criteria. A supervisor needs to know the qualifications needed to perform each job under his or her supervision and to develop objective interview and job review questions to anticipate prospective and actual employees' job performance. Human resource specialists who are responsible for initial screening of job applicants and mediating performance appraisal disputes must also understand the key components of the jobs in their organization.

A job analysis describes the job, not the person who fills it. It must be reviewed regularly and position descriptions updated as changes in the workplace occur. Job analysis provides an objective basis for hiring, evaluating, training, accommodating, and supervising persons with disabilities, as well as improving the efficiency of an organization. It is a logical process to determine the purpose of the job; the essential functions or duties critical or fundamental to job performance; the job setting/conditions under which essential job functions take place; and the minimal skills an individual must possess to perform these essential functions.

## **How to conduct a Job Analysis**

The following questions can help you to analyze each job in your organization.

### **Purpose**

What are the particular contributions of this job toward accomplishing the overall objective of the unit or organization?

Essential functions:

1. What three or four activities actually constitute the job? Is each necessary to the work of the organization?
2. What is the relationship among these tasks? Is there a special sequence that these tasks must follow?
3. Do these tasks necessitate sitting, standing, crawling, walking, climbing, running, stooping, kneeling, lifting, carrying, digging, writing, operating, pushing, pulling, fingering, talking, listening, interpreting, analyzing, seeing, coordinating, etc.?
4. How many other employees are available to perform each job function? Can the performance of any job function be distributed among other employees?
5. How much time is spent on each particular job function? Are tasks that are performed less frequently as important to success on the job as those done more frequently?
6. Would removing a function fundamentally alter the job?
7. What happens if a task is not completed on time?

### **Job Setting**

1. Location: Where are the essential functions of the job carried out?
2. Organization: How is the work organized for maximum safety and efficiency? How do workers obtain necessary equipment and materials?
3. Movement: What movement is required of employees to accomplish the essential functions of the job?
4. Conditions: What are the physical conditions of the job setting (hot, cold, damp, indoors, underground, wet, humid, dry, air-conditioned, dirty, greasy, noisy, subject to sudden temperature changes, etc.)? What are the social conditions of the job (solitary, in the company of others, minimally supervised, subject to deadlines, etc.)?

## **Worker qualifications**

1. What are the physical requirements? (Able to lift, drive, clean, etc.)?
2. What are the general skills needed for the job (Able to read, write, add, etc.)?
3. What specific training is necessary? Can it be obtained on the job?
4. What previous experience, if any, can mitigate the need for specific training?
5. What behavioral skills are needed to interact/communicate with co-workers and customers?

## **How to use the Job Analysis**

Once the job analysis has been completed you will be in a better position to:

1. Develop objective job-related interview questions;
2. Write a current and accurate position description;
3. Perform objective performance appraisals; and
4. Conduct personnel functions in a non-discriminatory manner.

## **Preparing for and conducting an effective job interview**

### **Accommodating persons with disabilities**

Hiring the right person for the right job starts with conducting an effective job interview. The following guidelines ensure that persons with disabilities are afforded a fair and equitable opportunity to present their job qualifications.

### **Preparing for the interview**

1. Your company's application and interviewing procedures should comply with the Americans with Disabilities Act (ADA). The ADA prohibits disability-related questions or medical exams before a real job offer is made.
2. Make sure your company's employment offices and your interview location(s) are accessible to applicants with mobility, visual, hearing, and cognitive disabilities.
3. Be willing to make appropriate and reasonable accommodations to enable a job applicant with a disability to present himself or herself in the best possible light. When setting up an interview explain what the hiring process involves and ask the individual if

he or she will need reasonable accommodations for any part of the interview process. Remember people have hidden disabilities, so this is a practice that should occur for all interviews.

4. Do not expect that a rehabilitation counselor, social worker or other party will take an active part in or sit in on an interview unless the applicant requests it.
5. Be sure that all questions asked during the interview are job-related. Speak to the essential job functions regarding the position for which the applicant is applying, as well as why, how, where, when, and by whom each task or operation is performed. Do not ask whether or not the individual needs an accommodation to perform these functions, because such information is likely to reveal whether or not the individual has a disability. This is an ADA requirement to ensure that an applicant with a disability is not excluded before a real job offer is made.

## **Conducting the interview**

1. Relax and make the applicant feel relaxed. Don't be afraid of making mistakes. At the same time, remember that candidates (particularly those applying for professional positions) are expected to assume an equal share of the responsibility for making the interaction successful.
2. Do not speculate or try to imagine how you would perform a specific job if you had the applicant's disability. The person with a disability has mastered alternate techniques and skills for living and working with his or her particular disability. If the applicant has a known disability (either because it is obvious or she revealed it), the employer may ask an applicant to describe how he or she would perform a certain job function if it is an essential part of the job. In addition, the employer may ask the individual if he or she needs reasonable accommodations and, if so, what type of accommodation. Remember, all questions should be job-related and asked in an open-ended format.
3. Concentrate on the applicant's technical and professional knowledge, skills, abilities, experiences, and interests, not on the disability. Remember, you cannot interview a disability, hire a disability, or supervise a disability. You can interview a person, hire a person, and supervise a person.
4. Disability related questions and medical examinations are prohibited under ADA at the pre-employment offer stage. After a real job offer is made, the offer may be contingent on the answers to disability-related questions and/or results of medical examinations, but only if the examination or inquiry is required for

all entering employees in similar jobs and only if all medical information is kept confidential. Disability-related questions and medical examinations at the post-offer stage do not have to be related to the job. However, if the offer is withdrawn, the employer must show that the individual could not perform the essential function of the position or would pose a direct on-the-job threat to his safety or that of others.

5. If testing is part of the interview process, make sure the test does not reveal information about physical or mental impairments (i.e., make sure it is not a medical examination). Other tests that demonstrate the applicant's ability to perform actual or simulated job tasks are permitted under ADA. Inform the applicant before the interview that a test will be part of the interview process. The applicant can then request an accommodation such as a different format for written tests.
6. If you are not prepared to make a commitment to hire an applicant immediately, the reasons given to all applicants who are not hired at the close of the interview apply: "Thank you for coming in, we will notify you in a few days of our decision," "It will be necessary for you to talk with the supervisor in charge of that unit," and so on.

## **Staff Development**

### **Career development**

One of the major problems facing many people with disabilities is under-utilization of their knowledge, skills, and abilities. Every effort should be made to ensure that employees with disabilities, like others, are given the opportunity to reach their maximum potential.

Employers should recognize that people with disabilities have career goals. Employers should ensure that employees with disabilities are given full consideration for inclusion in upward mobility programs and that they are aware of career counseling. Managers should sit down with employees and talk about goals. If it is the practice of your office to identify role models and mentors for employees, be sure to include employees with disabilities in that process.

Employers can use reassignments as a means of on-the-job training to enhance promotion opportunities for employees with disabilities. Employees with disabilities should have opportunities not only to work with others on group projects, but also when appropriate, to take on leadership roles.



## **Performance appraisals**

Employees with disabilities must be held accountable for their work performance. Performance appraisal procedures vary widely among companies. Some companies use formal, written documents; others use less formal, often oral, procedures. Employers must use the same procedures with employees with disabilities as with all other employees and apply the same performance standards to employees with disabilities that are applied to all employees. If a position has been restructured to accommodate a person's disability, evaluate the employee only on those tasks he or she is expected to perform.

If an employee with a disability cannot satisfactorily perform the essential functions of his or her job after a full and fair trial period and with appropriate reasonable accommodations, then his or her employment may be terminated.

## **Training**

Give employees with disabilities an equal chance to benefit from training and development opportunities as employees without disabilities. Management and leadership training should be among the options available, in addition to specific skills training. Formal classes must be held in accessible facilities. For example, materials should be available in large print, in braille, and on disk or tape for persons who are visually impaired; interpreters should be provided for participants who use sign language; and real-time captioning should be made available to those who are hearing-impaired.

## **Recruiting and retaining people with disabilities**

There are a number of target groups that can be contacted about recruiting and retaining people with disabilities, including vocational rehabilitation, centers for independent living, advocacy organizations, federal agencies, student organizations, and community groups.

Communication is key to increasing organizational recruitment of people with disabilities. Events, such as planned initiatives or exhibits, circulation of individual employee success stories, as well as training and career development opportunities, will enhance the employment and advancement of people with disabilities. Communications media include:

- Agency publications
- Bulletin boards
- Press releases
- Film or slide-tape presentations
- Local newspapers

- Local radio and television stations
- Chambers of Commerce, trade and technical magazines
- Community organizations newsletters
- Accessible internet or intranet sites
- Electronic mail, list serves and bulletin boards

Positive portrayals of employees with disabilities, feedback and appreciation, opportunities for advancement, the willingness to incorporate methods of accommodation all positively affect the retention of workers with disabilities. They create an environment that is receptive to the participation of people with disabilities and receptive to the value of inclusiveness. This setting is one in which the worker with a disability feels welcome and one in which other workers are encouraged to feel comfortable with people with disabilities.

## Self-development

Like all employees, individuals with disabilities also must take responsibility for their career development. Employees should continually seek out new education, training, and information. They should keep up on the latest information in the field, network, and volunteer for new assignments.

## Mentoring and job shadowing

### Mentoring

All staff can benefit from the guidance of a more experienced employee. Mentoring is an on-the job educational process that provides opportunities for professional development and growth and support for both the mentor and the mentee. Employers should encourage employees with disabilities to find mentors, whether or not the mentor has a disability. When these newer employees become more experienced, they should be encouraged to mentor other new employees, who may or may not have a disability.

Mentors provide many benefits:

- **Broad perspectives** about the transferability of skills and interests, as well as future career directions;
- **Motivation** to take calculated risks;
- **Advice** on the “politics” of human relationships within the organization;
- Honest and constructive **feedback** about problem areas;
- **Coaching** on technical, interpersonal, and management skills;
- **Encouragement**; and

- **Networking contacts, references, and introductions.**

## **What are the benefits to your business of mentoring employees with disabilities?**

### **1. It is an investment in your workforce.**

“Mentoring has to be one of the most important aspects of any business because it builds your next generation of employees,” says Michael Dunbar, Vice President of Public Relations for the Greater Columbus, Georgia, Chamber of Commerce. Mentoring experiences prepare individuals for advancement by strengthening their skills and providing them with confidence. Employers groom employees for current and future positions.

Mentoring individuals with disabilities builds human capital. Individuals with disabilities continue to face attitudinal barriers in employment. The mentoring process can help break down employment barriers by encouraging individuals with disabilities to take a more active role in planning and pursuing their careers. Mentoring programs also provide employers with access to new talent and promote greater awareness and understanding of disability in the workplace.

### **2. It sends employees a message that you care.**

Mentoring represents a commitment of time and energy to staff. It demonstrates that a value is placed on professional development and growth. Mentoring people with disabilities sends a message to employees that the company really does care about all of its people.

### **3. It creates positive attitude changes in your corporate culture.**

Promoting a greater appreciation of diversity in the workplace is another benefit of mentoring. “Mentoring is an eye-opening experience for employers. In some cases, employers are not sure how to deal with a person’s disability. Once the employer starts working with a person with a disability, he or she begins to see the person’s capabilities rather than the disability. The experience can also have an impact on everyone in the office,” says Donna Mundy, who is the Florida High School/High Tech Program project director. “It’s a positive step for all concerned. Mentoring individuals with disabilities has helped our organization broaden its understanding of disability. You learn that disabilities are not limiting.” Numerous individuals who have participated in mentoring experiences can attest to its impact on organizational culture.

## **Mentoring tips**

Anyone can be a mentor. Here are some suggestions for starting a mentoring program in your organization.

- Make sure that you have senior management's support of your program.
- Work with staff to ensure that they understand the concept of mentoring and are committed to it.
- Hold training sessions for staff to make sure that they understand the commitment they are making.
- Provide disability awareness training for staff that are working with individuals with disabilities for the first time.
- Appoint a mentoring coordinator (perhaps someone from human resources) who can serve as a resource for both the employee and the individual mentor within your organization.
- Provide incentives for people to both mentor and receive mentoring. Hold special recognition events for individuals participating in mentoring.
- Have the mentor and the mentee agree on expectations up front, including how long the mentoring will last and how frequently they will meet.
- Encourage participants to work together on an individualized development plan as a mentoring activity. Have the plan approved by all those involved, including senior management. Individualized development planning helps define expectations, and the plan can be used to measure progress.

## **National Disability Mentoring Day**

### **What is Disability Mentoring Day?**

Hosted by the American Association of People with Disabilities (AAPD) in partnership with the U.S. Department of Labor's Office of Disability Employment Policy, Disability Mentoring Day promotes career development for students and job seekers with disabilities through job shadowing and hands-on career exploration. With leadership, coordination, and resource materials from AAPD, local communities around the country organize their own activities that bring students and employers together for informational sessions about career opportunities and one-on-one mentoring with volunteers at public and private places of employment.

### **What happens on Disability Mentoring Day?**

Disability Mentoring Day is officially commemorated on the third Wednesday of every month and implemented in locations around the country and internationally throughout the year. Each community plans activities to best suit the interests and abilities of its students, job seekers, and local employers. Although the core

experience is one-on-one job shadowing, event planners may choose to open with a meeting for a group of students and job seekers featuring several presentations and/or close with a reception where students, job seekers, and mentors can share their experiences. The type of mentoring experience will depend in large part on the participants' interests, education level, and work experience.

### **How do employers benefit from Disability Mentoring Day?**

Disability Mentoring Day provides public and private employers with an opportunity to recruit interns, tap a pool of potential future employees, learn more about the experience of disability, develop relationships with disability community leaders, demonstrate positive leadership in their communities, and attract positive attention to the issue of workforce equity for people with disabilities.

For more information on National Disability Mentoring Day, visit the AAPD web site at <http://www.dmd-aapd.org/>.

### **Oregon Disability Mentoring Day**

Oregon Disability Mentoring Day is held annually during October, National Disability Employment Awareness Month, and begins with a presentation about diversity issues in the workplace. Mentees and mentors then match up for two hours of job shadowing within different departments. The event ends with a luncheon that includes speakers and an open forum for participants to share their experiences of the day.

### **Supported employment: A successful business strategy for employing people with the most significant disabilities**

Supported employment is a program to assist people with the most significant disabilities—those for whom competitive, uninterrupted employment has not traditionally occurred—become and remain successfully and competitively employed in integrated workplace settings. (PHOTO HERE)

Supported employment provides people with the most significant disabilities with the intensive or extended support services they need to become successfully and competitively employed.

Increasingly, supported employment programs seek to identify jobs that provide wages above the minimum wage, fringe benefits, and career potential. Supported employment programs not only develop jobs for people with the most significant disabilities, but also provide a qualified labor source for the business sector.

The most effective employment outcomes are achieved initially by using agency workplace supports in conjunction with natural supports. Many of the agency supports can eventually be replaced by natural supports similar to the ones that all employees receive in the work environment.

## **Supported employment models**

- **Agency-supported** – A rehabilitation or community services agency places the employee in a job and provides or facilitates the ongoing support services needed to help assist him or her retain the job.
- **Entrepreneurial** – The employee is supported by the rehabilitation or community services agency in getting the services and supports needed to successfully run his or her own business.

## **Definitions of basic supported-employment terms**

- **Supported services**—Includes all of the following: job development and placement; intensive job-site training; facilitation of natural supports; special skill training; supplementary assessment; contact with employers, parents, family members, and advocacy organizations; teaching compensatory workplace strategies.
- **Extensive support services**—Support services needed on an ongoing basis to support and maintain a person in competitive employment, provided at no cost to the employer.
- **Employment specialist/consultant (job coach)**: A person who matches clients with disabilities with jobs, provides necessary supports during the initial employment period, and then facilitates the transition to natural workplace supports. The job coach is employed by a job training and placement organization that serves people disabilities.
- **Natural supports**—Support from supervisors and co-workers to assist an employee with disabilities to perform his or job, including supports already provided by the employer for all employees. These natural supports may be both formal and informal, and include mentoring, supervision (ongoing feedback on job performance), training (learning a new job skill with a co-worker), and socializing with co-workers at breaks or after work. The use of natural supports increases the integration of an employee with a disability into the workplace.

- **Carving/job creation**—The process of breaking down a job into its key components and assigning these to the employee and/or other workers to accommodate the limitations of the worker with a disability. This process results in either job restructuring or job creation.
- **Job Development**—Locating jobs for people with disabilities by networking with employers, businesses, and community leaders. The use of business advisory councils, job developer networks, and business leadership networks is an excellent way to develop contacts that lead to employment for people with disabilities.

For more information about supported employment in Oregon see:

[http://www.dhs.state.or.us/dd/supp\\_emp/](http://www.dhs.state.or.us/dd/supp_emp/)

## Resources

### Where can I obtain additional information about employment strategies?

#### Office of Vocational Rehabilitation Services

(503) 945-5880 or toll free 877-277-0513 – Central Office

[www.dhs.state.or.us/vr](http://www.dhs.state.or.us/vr)

The staff at the Oregon Department of Human Services, Office of Vocational Rehabilitation Services (OVRs, “Voc Rehab” or “VR”) offers support for recruiting, hiring, and retaining workers who have disabilities. See the *FlexAbility Toolkit* “Resource Guide” for a list of local VR offices.

#### Oregon Commission for the Blind

(971) 673-1588

Toll Free: (888)202-5463

TTY: (971)673-1577

<http://www.oregon.gov/Blind/>

The Oregon Commission for the Blind assists blind Oregonians in making informed choices and decisions to achieve full inclusion and integration in society through employment, independent living, and social self-sufficiency.

#### Oregon Business Leadership Network

(503) 281-1424

[www.obln.org](http://www.obln.org)

The OBLN is a statewide consortium of employers committed to disability-friendly workplaces and customer places. Its members meet regularly to share

information and network with other businesses about hiring, retaining, recruiting, employees with disabilities. The OBLN web site provides information and links regarding employment and disabilities, and staff or members can provide information and referral around local best practices.

**DBTAC Northwest  
ADA Information Center**  
(800) 949-4232  
[www.dbtacnorthwest.org](http://www.dbtacnorthwest.org)

The Disability Business Technical Assistance Center Northwest, ADA Information Center (DBTAC NW ADA Information Center) provides expert technical assistance, training, and dissemination of information regarding the Americans with Disabilities Act. The DBTAC Northwest ADA Information Center is the federally designated Disability Business Technical Assistance Center (DBTAC) serving Oregon, Washington, Idaho, and Alaska. Find other regional DBTACs at [www.adata.org](http://www.adata.org) or by calling 1-800-949-4232 (voice/TTY).

**Worksource Oregon and One Stop Centers**  
[www.worksourceoregon.org](http://www.worksourceoregon.org)

Worksource Oregon provides several employer services through its local Worksource or One Stop Centers, including assistance in hiring individuals who have disabilities. One Stop Career Centers are located throughout Oregon and in communities nationwide. One Stops consist of several agencies working together to offer an assortment of career development and job search services, including job postings that can be used by everyone, including people with disabilities. Several Oregon One Stops have available a disability navigator who may be able to help guide applicants toward disability-friendly businesses.

**Independent Living Resources (ILR)**  
(503) 232-7411 (voice) (503) 232 8408 (TTY)

ILR provides a variety of advocacy and independent living services to people with disabilities, their families, and friends in Clackamas, Multnomah, and Washington counties. ILR can assist with setting up a mentoring day or job-shadowing day.

**American Association of People with Disabilities (AAPD)**  
<http://www.dmd-aapd.org>

This AAPD web site is dedicated to the AAPD National Disability Mentoring Day and provides information about developing job-shadowing programs and finding local mentoring resources.



## Section 4 Vocational rehabilitation

# Vocational rehabilitation

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# **Vocational rehabilitation: The bridge to economic independence for people with disabilities**

Since its creation in 1920, the public Vocational Rehabilitation program has grown in keeping with evolving society norms and federal and state laws relating to persons with disabilities and the workplace. The VR program provides for a national team of vocational rehabilitation counselors who offer evaluation and assessment, vocational counseling and guidance, job development and placement, and who purchase services and support to help people with disabilities go to work.

In Oregon, the public Vocational Rehabilitation program is administered by the:

- Office of Vocational Rehabilitation Services
- Commission for the Blind
- Native American VR Program – Grand Ronde
- Native American VR Program – Warm Springs

In the past year, the public Vocational Rehabilitation program in Oregon has worked with more than 3,000 employers in communities across the state and assisted qualified job seekers with disabilities to become employed. The average wages for employees was \$11.00 per hour for more than 30 hours of work per week.

We're proud of the partnerships we have with employers. We look forward to working with you to meet your workforce needs. Please contact the public Vocational Rehabilitation program in VR community for more information.

## **Oregon Office of Vocational Rehabilitation Services**

[www.dhs.state.or.us/vr](http://www.dhs.state.or.us/vr)

Oregon's Office of Vocational Rehabilitation Services (OVRs, or VR) is a state and federally funded program that works in partnership with the community and with businesses to develop employment opportunities for people who have disabilities. OVRs provides resources for recruitment, hiring, and retaining workers who have disabilities.

### **How to contact OVRs**

The OVRs administration offices are located at the Oregon Department of Human Services building in Salem. OVRs branch offices provide services throughout the state. Feel free to call the administration office toll-free at (877) 277-0513 to find the VR contact closest to you.

OVRs Administration Office  
500 Summer Street NE, E-87  
Salem, OR 97301  
Voice (503) 945-5880, Toll Free (877) 277-0513  
TTY (503) 945-5894.

## How To Contact OVRS Field Offices

<b>ALBANY</b> 1400 Queen Ave SE Suite 107 Albany, OR 97321 541-967-2022	<b>ASTORIA</b> 450 Marine Dr. Suite 100 Astoria, OR 97103 503-325-7335	<b>BAKER CITY</b> 3165 10 <sup>th</sup> St, Ste. 500 Baker City, OR 97814-3913 541-523-8444
<b>BEND</b> 1230 NE 3 <sup>rd</sup> St, Suite A-152 Bend, OR 97701 541-388-6336	<b>CENTRAL PORTLAND</b> 3945 SE Powell Blvd Portland, OR 97202 971-673-2555	<b>CLACKAMAS</b> 4382 International Way Suite B Milwaukie, OR 97222 971-673-6130
<b>COOS BAY</b> Mailing: PO Box 1113 Street: 2110 Newmark Ave Rm 121 Coos Bay, Or 97420 541-756-8467	<b>CORVALLIS</b> 545 SW 2 <sup>nd</sup> St Suite G Corvallis, OR 97333 541-757-4131	<b>EAST PORTLAND</b> 305 NE 102 <sup>nd</sup> Ave Suite 200 Portland, OR 97220 971-673-5858
<b>EAST SPRINGFIELD</b> 101 30 <sup>th</sup> St Springfield, OR 97478 541-726-3525	<b>GOLD BEACH</b> 94145 W 5 <sup>th</sup> Pl PO Box 1170 Gold Beach, OR 97444 541-247-0290	<b>GRANTS PASS</b> 725 NE 7 <sup>th</sup> St Suite C Grants Pass, OR 97526 541-474-3130
<b>HERMISTON</b> 950 SE Columbia Dr Ste A Hermiston, OR 97838 541-564-5673	<b>KLAMATH FALLS</b> 801 Oak Ave Klamath Falls, OR 97601 541-883-5614	<b>LA GRANDE</b> 1607 Gekeler La Grande, OR 97850 541-963-7698
<b>MARION/POLK</b> 1701 Liberty St S Salem, OR 97310 503-378-2483	<b>McMINNVILLE</b> 368 NE Norton Lane McMinnville, OR 97128 503-472-2116	<b>MEDFORD</b> 28 W 6 <sup>th</sup> St Suite A Medford, OR 97501 541-776-6035
<b>NEWPORT</b> 119 NE 4 <sup>th</sup> St Suite 1 Newport, OR 97365 541-265-7843	<b>NORTH PORTLAND</b> 4744 N Interstate Ave Portland, OR 97217 971-673-3055	<b>North Salem</b> 1210 Hawthorne Ave NE Salem, OR 97301 503-378-3587
<b>ONTARIO</b> 186 East Lane Suite 1 Ontario, OR 97914 541-889-9148	<b>PENDLETON</b> 1555 SW Southgate Pl Pendleton, OR 97801 541-278-4161 x253	<b>ROSEBURG</b> 2020 NW Newcastle St Roseburg, OR 97470 541-440-3371

<p><b>THE DALLES</b>  700 Union St Rm 128  The Dalles, OR 97508  541-298-5573</p>	<p><b>TILLAMOOK</b>  4670 E Third St  Tillamook, OR 97141  503-842-7873</p>	<p><b>WASHINGTON COUNTY</b>  10777 SW Cascade Blvd  Tigard, OR 97223  503-670-9575</p>
<p><b>WEST EUGENE FAMILY CTR</b>  2101 W 11<sup>th</sup> Ave  Eugene, OR 97402  541-686-7722</p>		

## Oregon Commission for the Blind (OCB)

[www.cfb.state.or.us](http://www.cfb.state.or.us)

### Services for employers

OCB staff can assist businesses in recruiting and hiring qualified applicants who have a vision impairment. Once an individual with a vision impairment has been employed, OCB services to employers include:

- Awareness training – OCB will visit the work site and provide training to the managers and staff who work with the person who is visually impaired.
- Business assessment – An OCB rehabilitation professional will review the work site to optimize the employee's productivity.
- Helping retain valued employees – OCB helps employers retain an already trained and productive employee who is experiencing decreased vision.

### How to contact OCB

The OCB operates four main field offices. Counselors and teachers provide services statewide and can meet with you at your business. Feel free to call the Portland headquarters toll-free at (888) 202-5463 to find the contact closest to you.

Portland Headquarters  
535 SE 12<sup>th</sup> Avenue  
Portland, OR 97214  
Voice (503) 731-3221  
Toll Free (888) 202-5463  
TTY (503) 731-3224

Eugene Field Office 541 Willamette, Rm 408 Eugene, OR 97401 541-686-7990	Medford Field Office 228 North Holly Medford, OR 97501 541-776-6047
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## **Native American Vocational Rehabilitation Programs**

VR services are available for Grand Ronde and Warm Springs tribal members with disabilities through VR programs at the Tribes' Social Services departments.

### **Contact Information for Native American VR programs**

Grande Ronde:

Ron Hudson  
Confederated Tribes of Grand Ronde  
P.O. Box 309  
Grand Ronde, Oregon 97347  
(503) 879-3098

Jon George  
Confederated Tribes of Grand Ronde  
3312 SW Kelly Avenue  
Portland, Oregon 97207  
(503) 239-8859

Confederated Tribes of Warm Springs:

Corina Bruno  
Confederated Tribes of Warm Springs  
P.O. Box C  
Warm Springs, Oregon 97761  
(541) 553-4952



## Section 5

# Financial incentives & Oregon programs

# Financial incentives and Oregon programs

## Tax incentives for business

There are three federal tax incentives specifically available to help employers cover the cost of accommodations for employees with disabilities or to make their place of business accessible to employees or customers with disabilities. These include the Small Business Tax Credit, the Architectural/Transportation Tax Deduction, and the Work Opportunity Tax Credit.

(PHOTO HERE)

Additionally, the State of Oregon provides an Energy Tax Credit for telework programs. Tax incentives can offer cost-saving options to Oregon employers who hire workers with disabilities.

## Small Business Tax Credit:

### IRS Code Section 44, Disabled Access Credit

#### What is it?

Small businesses may take an annual tax credit for making their businesses accessible to persons with disabilities.

#### Who is eligible?

Small businesses that in the previous year earned a maximum of \$1 million in revenue or had 30 or fewer full-time employees.

#### What is the amount?

The credit is 50 percent of expenditures over \$250, not to exceed \$10,250, for a maximum benefit of \$5,000. The credit amount is subtracted from the total tax liability after calculating taxes.

### **What expenses are covered?**

The credit is available every year and can be used for a variety of costs such as:

- Sign language interpreters for employees or customers who have hearing impairments;
- Readers for employees or customers who have visual impairments;
- The purchase of adaptive equipment or the modification of equipment;
- The production of print materials in alternate formats (e.g., braille, audio tape, large print); and
- The removal of architectural barriers in buildings or vehicles.

### **What expenses are not covered?**

The tax credit does not apply to the costs of new construction, and a building being modified must have been in service before November 5, 1990.

### **How can this credit be claimed?**

Businesses can claim people with disabilities access credit on IRA Form 8826.

### **Where can I obtain additional information?**

Office of Associate Counsel, IRA  
Passthrough & Special Industries  
1111 Constitution Avenue, NW  
Washington, DC 20224  
(202) 622-3110

# **Architectural/Transportation Tax Deduction: IRS Code Section 190, Barrier Removal**

## **What is it?**

Businesses may take an annual deduction for expenses incurred to remove physical, structural, and transportation barriers in the workplace for persons with disabilities.

## **Who is eligible?**

All businesses.

## **What is the amount?**

Businesses may take a tax deduction of up to \$15,000 a year for expenses incurred to remove barriers for persons with disabilities. Amounts in excess of the \$15,000 maximum annual deduction may be depreciated.

## **What expenses are covered?**

The deduction is available every year. It can be used for a variety of costs to make a facility or public transportation vehicle, owned or leased for use by the business, more accessible to and usable by persons with disabilities.

Examples include the cost of:

- Providing accessible parking spaces, ramps, and curb cuts;
- Providing telephones, water fountains, and restrooms that are accessible to persons using wheelchairs; and
- Making walkways at least 48 inches wide.

## **What expenses are not covered?**

The deduction may not be used for expenses incurred for new construction or for a complete renovation of a facility or public

transportation vehicle or for the normal replacement of depreciable property.

### **May I use the tax credit and tax deduction together?**

Small businesses may use the credit and deduction together if the expenses incurred qualify under both Sections 44 and 190. For example, if a business spent \$12,000 for access adaptations, it would qualify for a \$5,000 tax credit and a \$7,000 tax deduction.

### **Are there limits on annual usage?**

Although both the tax credit and deduction may be used annually, if a business spends more than may be claimed in one year, it cannot carry over those expenses and claim a tax benefit in the next year.

### **How can this credit be deducted?**

The amount spent is subtracted from the total income of a business to establish its taxable income. In order for expenses to be deductible, accessibility standards established under the Section 190 regulations must be met.

### **Where can I obtain additional information?**

Office of Associate Counsel, IRA  
Passthrough & Special Industries  
1111 Constitution Avenue, NW  
Washington, DC 20224  
(202) 622-3110

## **Work Opportunity Credit (WOTC)**

### **What is it?**

The Work Opportunity Tax Credit (WOTC), which replaced the Targeted Jobs Tax Credit (TJTC) program, provides a tax credit for employers who hire certain targeted low-income group members, including those

referred by the Office of Vocational Rehabilitation Service, former TANF recipients, youths, veterans, ex-felons, food stamp recipients, summer youth employees, SSI recipients, and people working under the Ticket to Work program.

### **How does it apply to persons with disabilities?**

Employers that hire people who are SSI recipients, those referred by Vocational Rehabilitation (VR), or people working under the Ticket to Work program must also meet all of the criteria described below to claim the WOTC.

Each individual referred by VR will provide the necessary documentation to the State Employment Department for certification of:

- Having a physical or mental disability resulting in a hindrance to employment; and
- Having been referred to an employer upon completion of or while receiving rehabilitative services, pursuant to the Vocational Rehabilitation Act of 1973, as amended.

### **What is the amount?**

An employer may take a tax credit of up to 40 percent of the first \$6,000 or up to \$2,400 in wages paid during the first 12 months for each new hire.

### **What are the minimum employment requirements?**

Eligible employees must work 180 days or 400 hours; summer youth must work 20 days or 120 hours. A partial credit of 25 percent for certified employees who work at least 120, but fewer than 400 hours, may be claimed by the employer.

### **What agency provides the WOTC certification?**

The local State Employment Security Agency (SESA), Oregon's Employment Department, provides certification.

## **How do I file for this credit?**

Complete IRS form 8850 (see below for a link to the form), Pre-screening Notice and Certification Request for the Work Opportunity and Welfare-to-Work credits and submit it to your local SESA.

## **How does it work?**

- The employer determines likely eligibility by including the WOTC Pre-Screening Notice as part of the application process.
- On or before the day employment is offered, employer and employee must sign the Pre-Screening Notice; they must mail it to the SESA within 21 days after the employee begins work.
- The employer documents eligibility (based on information received from the employee) and submits documentation to the SESA.
- SESA certifies which individuals are eligible for WOTC and notifies the employer in writing for purposes of filing the tax credit.

## **Where can I obtain IRS Form 8850?**

Internal Revenue Service:

<http://www.irs.gov/pub/irs-pdf/f8850.pdf>

800-829-1040 (voice) or 800-829-4059 TTY

U.S. Department of Labor:

<http://www.doleta.gov/employer/f8850.pdf>

Oregon Employment Department at 1-800-2337-3710 ext. 71672, or your nearest Employment Department Field Office, or email

[wo\\_tax\\_credit@emp.state.or.us](mailto:wo_tax_credit@emp.state.or.us)

## **Where can I obtain additional information?**

Visit the Oregon Employment Department, WOTC Unit website at:

[www.oregontaxcredit.org](http://www.oregontaxcredit.org)

or contact the unit at 1-800-237-3710 ext. 71672

Visit the U.S. Department of Labor, Work Opportunity Tax Credit website at:

<http://www.uses.doleta.gov/wotcdata.asp>

Download the U.S. Department of Labor ETA 9061 form from:

[www.uses.doleta.gov/pdf/Appendix\\_11/Appendix\\_11\\_1\\_ETA\\_9061.pdf](http://www.uses.doleta.gov/pdf/Appendix_11/Appendix_11_1_ETA_9061.pdf)

## **Tax credits for telework equipment**

### **What is telework?**

Telework (also called telecommuting) is work at locations other than the traditional workplace one or more days a week.

### **What tax credit covers telework?**

The Oregon Legislature made telework projects eligible for the state business Energy Tax Credit to encourage alternatives to drive-alone commuting.

### **How does it apply to persons with disabilities?**

Telework can be an effective accommodation for some individuals with disabilities and, in some instances, provide work opportunities for people who cannot easily leave their homes.

### **How does it work?**

Oregon employers can get a tax credit for purchasing and installing new or used equipment that allows an employee to telework. Computers, fax machines, modems, phones, printers, software, copiers, and other equipment necessary for telework are eligible for the tax credit. The employee must work at least 45 days per calendar year.

### **Who is eligible?**



Any business that pays Oregon income tax is eligible for the tax credit. Projects must be located in Oregon.

### **Where can I obtain additional information?**

The Oregon Department of Energy administers the tax credit program. Businesses must apply and receive approval for the tax credit before starting the project.

To get a fact sheet and application instructions go to:

[www.energy.state.or.us/telework/teletax.htm](http://www.energy.state.or.us/telework/teletax.htm) or contact the Oregon Department of Energy at (503) 373-7806 or toll free (Oregon only) (800) 221-8035.

### **On-the-job training wage subsidy**

Request On-The-Job wage subsidy (OJT) information at your Office of Vocational Rehabilitation Services branch office. Locations are listed in the FlexAbility Toolkit Resource Guide or on-line at:

[www.dhs.state.or.us/vr/index/html](http://www.dhs.state.or.us/vr/index/html) or call the OVRs Central Office at (503) 945-5880 (voice), (503) 945-5894 (TTY), (877) 277-0513.

The Office of Vocational Rehabilitation Services (OVRs) may offer an employer an OJT wage subsidy. In the agreement, the counselor must show what skills the worker will learn. It is very helpful if you have a list of the job duties that need to be performed as well as your entry-level requirements for the position. This gives the counselor an opportunity to evaluate and justify the need for an OJT wage subsidy.

In negotiating a wage subsidy, the following is considered:

- A wage subsidy may last 1 – 3 months depending on the skills to be learned.
- A wage subsidy may be reimbursed at a rate up to but not generally more than 50 percent of the wage.

The wage subsidy must be negotiated before the person is hired.

# Oregon's Preferred Worker Program and Employer-At-Injury Program

Reemployment programs available through the Workers' Compensation Division of the Department of Consumer & Business Services assist employers and employees with workers' compensation claims. Employer use of the program is voluntary.

The Workers' Compensation Division website contains return to work, "Reemployment Assistance," and "Preferred Worker Job Match" enrollment forms and worksite modification information at: [www.oregonwcd.org](http://www.oregonwcd.org).

The State of Oregon Preferred Worker Program encourages the re-employment of qualified Oregon workers who are not able to return to their former work because of injuries they incurred on-the-job. The program is funded by worker and employer contributions to the Workers' Benefit Fund. Preferred workers can offer cost-saving options to the Oregon employers who hire them.

## Eligible employers

Employers must maintain Oregon workers compensation insurance and comply with Oregon workers' compensation law.

## Eligible workers

To be eligible for workers' compensation benefits, workers:

- Must have permanent disabilities as a result of a disabling, compensable injury or disease sustained on the job in Oregon.
- Must not have returned to regular work.
- Must not have refused an offer of appropriate employment at the workplace where the injury occurred.

## Major program features

**Premium exemption:** An employer does not pay workers' compensation insurance premiums or premium assessments on a preferred worker for up to three years from the date the worker starts work. If a worker has already started premium exemption and switches jobs, subsequent employers will be allowed to use the remaining time.

**Claim cost reimbursement:** This protects the employer from the cost of a new, accepted workers' compensation claim by the preferred worker during the premium period.

**Wage subsidy:** The employer may take advantage of a fifty percent wage reimbursement for six months one time each with two different employers.

**Obtained employment purchases:** These are items the worker is required to purchase for a job. These items must be required of all workers performing the job for which the worker is employed and must be items not normally provided by the employer. Purchases may include:

- Tuition, books, and fees for instruction to update existing skills (\$750 maximum reimbursement).
- Tools and equipment mandatory for the job, such as tool starter sets (\$2,000 maximum reimbursement).
- Clothing required for the job (\$400 maximum reimbursement).
- Moving expenses for a job more than 50 miles from the workers' primary residence.

**Worksite modification:** Modifications are limited to a maximum of \$25,000 on the claim that qualified the worker for assistance and may include tools, equipment, and worksite redesign needed to overcome injury-caused limitations. A worker may employ worksite modification funds once with one employer and once with a second employer or twice with the same employer if there is a job change.

The Employer-At-Injury Program is a range of benefits designed to encourage employers to develop, implement, and use transitional work programs to reemploy injured Oregon workers prior to a workers'

compensation claim closure. The program is administered by the insurer responsible for the workers' claim and may include making or approving purchases and workplace modification.

**If you have questions about Reemployment Assistance call:**  
(800) 445-3948 (Oregon only), (503) 947-7588 (Salem office),  
(800) 696-7161 (Medford office), or (503) 947-7993 (TTY).

## **JOBS Plus Program**

The JOBS Plus Program was implemented in 1990. The original program provided job seekers receiving Temporary Assistance to Needy Families (TANF), food stamps (FS), and unemployment insurance (UI) with learning experiences in private and public sector jobs. The original program was modified by the 2001 legislature. The JOBS Plus Program provides a work experience of 13 weeks for unemployment insurance claimants and 26 weeks for TANF clients.

### **Participant advantages**

The program provides participants the opportunity to:

- Increase their competitiveness within the local labor market and the workplace as a whole.
- Open doors to businesses that were not previously available to the participant.
- Market individual knowledge, skills, and abilities.
- Upgrade current and/or learn new job skills.
- Receive wages while being trained.
- Receive up to 8 hours of paid work search per week.
- Build an individual Education Account that can be accessed up to 5 years after completing the JOBS Plus experience.

### **Employer advantages**

Employers providing learning experiences have the opportunity to:

- Observe a participant before hiring him permanently.

- Train a participant regarding the company's business practices.
- Receive wage reimbursement of \$5 an hour for UI claimants and the Oregon minimum wage for TANF recipients.
- Apply for a federal tax credit that may be available if the participant qualifies.

### **Employer participation requirements**

An employer choosing to participate in the JOBS Plus Program must adhere to the following:

- JOBS Plus can not be used to displace regular employees or fill open positions previously established.
- JOBS Plus participants may not exceed 10 percent of the employer's employees; however, each employer is eligible to receive one participant.
- Employers must provide a positive learning environment and a mentor to facilitate the participant's transition into the workplace.
- Employers must maintain health, safety, and working conditions at or above generally accepted industry standards.
- JOBS Plus participants cannot be required to work more than 40 hours per week.
- JOBS Plus jobs must pay at least the Oregon minimum wage and not "substantially less than" the wage paid for similar jobs in the local economy, with adjustment for experience and training.
- JOBS Plus workers are considered as temporary workers for the employer and entitled to benefits required by state or federal law.
- Employers sign an agreement to abide by all the requirements of the program.

### **How do employers become involved in the program?**

Contact the nearest Employment Department field office, or go to:  
[http://www.oregon.gov/EMPLOY/COMM/2004-05-03JOBS\\_plus.shtml](http://www.oregon.gov/EMPLOY/COMM/2004-05-03JOBS_plus.shtml).



## **Workplace accommodations**

### **What are reasonable accommodations?**

Reasonable accommodations are any change in the work environment or in the way things are usually done that enable an individual with a disability to participate in the application process, to perform the essential functions (or fundamental duties) of a job, or to enjoy equal benefits and privileges of employment that are available to individuals without disabilities. Accommodations help employers not only hire new workers with disabilities, but also keep workers who may become disabled.

In short, reasonable accommodations are workplace adjustments or modifications that enable an employee with a disability to do his job. As such, they are on a par with the desks, chairs, phones, and computers that an employer provides employees as the means for their getting the job done.

Reasonable accommodations in the workplace range from making the physical environment accessible to restructuring a job, transferring an employee to a different job or location, or providing flexible scheduling, or providing assistive equipment and/or certain types of personal assistants (e.g., a reader for a person who is visually impaired, an interpreter for a person who has a loss of hearing). An employee who is blind or who has a visual impairment, for example, might need a computer that operates by voice command or has a screen that enlarges print.

Good business practice and the 1990 Americans with Disabilities Act (ADA) both require that employers with 15 or more employees make reasonable accommodations in the workplace for employees with disabilities. Individual states may have similar non-discrimination laws that apply to employers with fewer employees. In Oregon, for example, employers with six employees are required to make reasonable accommodations on a case-by-case basis.

### **What is the workplace accommodation process?**

The workplace accommodation process needs to be in place before anyone needs to use it. Follow these steps to ensure that your workplace is disability-friendly:

Notify Employees: Employers covered by the Americans with Disabilities Act (ADA) are required to post notices describing the employment provisions of the ADA. It is advisable for employers to have a process in place for facilitating accommodation requests and take steps to ensure that all employees are aware of and understand it.

**Facilitate Requests:** If an individual with a disability seeks an accommodation, generally he or she is responsible for informing the employer of the need. Individuals do not have to use the word “accommodation,” but they must indicate that they have difficulty carrying out their tasks due to a disability. An employee with a disability or other party (e.g., family member, co-worker, counselor) may request a workplace accommodation at any time during employment. Alternatively, the employer may bring up her concerns about the quality or quantity concerns of the employee’s performance because of a disability.

**Analyze Jobs:** To facilitate the accommodation process, it is prudent for employers to develop and maintain a detailed description for each job that lists its essential functions and duties. Such descriptions should focus on a job, not a person. For example, a warehouse position may require that boxes be stacked on shelves. The essential function of this job is that boxes be stacked, not that a person lift boxes.

When developing job descriptions, all aspects of a job must be taken into consideration. In addition to specific tasks, descriptions should include details such as scheduling and location, equipment necessary to complete the job, any health and safety requirements, and conduct requirements.

## **What are steps to consider when making a workplace accommodation?**

The employee and the employer should then discuss the request. There are several considerations when determining reasonable accommodation requests, including the demands of the job, the employee’s skills and functional limitations, available technology, and cost. After both parties agree that a workplace accommodation is needed, they must select one that is appropriate. Working through the following steps can facilitate ease in accommodation.

**Identify Functional Limitations:** When a reasonable accommodation is needed to perform essential job functions, the employer and employee should discuss the employee’s functional limitations and determine where these intersect with his or her duties. Again, the focus should be on a person’s essential job tasks and the physical functions necessary to complete them, not his or her disability. If a person’s condition is not obvious, medical validation may be needed. (Remember the confidentiality of all information about an employee’s health condition is protected by federal laws (i.e. the ADA, and HIPPA). Typically, such functions can be described in “I-N-G” action verbs: walking, pushing, reading.

**Determine Potential Accommodations:** Sometimes, an employee with a disability is aware of the modifications he or she needs to perform certain tasks. Other times, devising an effective accommodation requires creative and



collaborative thinking. It is important to remember that accommodations are not limited to adjustments to a physical work environment. They may involve changes to the way a job is done or structured, modified workplace policies and procedures, adjusted work schedules, swapping or eliminating marginal functions or perhaps even changes to corporate culture. Or, they may entail procuring assistive technology or services such as readers or interpreters. In an informal setting, brainstorm with the employee ideas on how that person's impairment affects the performance of the essential functions of the job. Ask the employee for an idea of what a satisfactory accommodation might be. If an acceptable accommodation is identified, go with it. If not, seek further consultation with outside resources ( i.e. DBTAC Northwest, Oregon VR, or other organizations) involved with assisting in resolving reasonable accommodation questions.

**Make the Accommodation:** Once a solution is identified that is effective and reasonable, it should be implemented as quickly as possible. An employer has the final say on which accommodation is implemented, based on factors such as cost, effectiveness and business feasibility. However, accommodations work best when both the employer and employee participate in the process and the employee's needs and preferences have been taken into consideration in making the decision.

**Monitor Effectiveness:** Not all accommodations produce the desired outcome. If the accommodation is not working, the employer and employee should start the process again. Follow up with the employee to see if the adaptations enable the employee to perform the essential job functions at a level equal to employees in the same job. Monitor the accommodation to ensure effectiveness. If the accommodation needs change or is determined not to be effective, repeat the above steps.

Like most sound management practices, the accommodation process is enhanced by collaboration. Moreover, by requiring employers and employees to work together and think creatively about how various tasks are accomplished, it may help uncover strategies that lead to a more positive and productive workplace for all employees.

## **What is undue hardship?**

Accommodations are not required when their cost would constitute an undue hardship for the employer. This legal term is defined in the ADA as an action requiring significant difficulty or expense for the business/employer when considering the following factors:

- The nature and cost of the proposed accommodation;

- The overall financial resources of the business and the effect of the accommodation upon expenses and resources; and
- The impact of the accommodation upon the operation of the facility.

The *FlexAbility Toolkit* section on “Financial Incentives” and Oregon programs contains information about Oregon resources that may help employees craft straightforward, affordable solutions for reasonable accommodations.

## **Customized Solutions for Today’s Workforce: The Job Accommodation Network**

### **What is JAN?**

The Job Accommodation Network (JAN), a service of the U. S. Department of Labor’s Office of Disability Employment Policy (ODEP), is a toll-free, web-based resource for anyone who has questions about job accommodations or about the employment sections of the Americans with Disabilities Act (ADA). Trained consultants respond to questions, discuss specific job accommodations, and suggest additional resources to assist you.

### **Who should use JAN?**

Employers, persons with disabilities, service providers, rehabilitation counselors, or anybody involved in helping a person with a disability obtain or retain a job should use JAN.

### **How does JAN work?**

All calls to JAN are kept confidential. If you are calling about accommodating an individual on the job, the more you tell the consultant about the required tasks and the functional limitations and the abilities of the individual, the better the consultant will be able to help. When you call, the following steps occur:

- The receptionist listens to each question and transfers the caller to the JAN consultant who is most knowledgeable in a particular area.
- The consultant asks questions to obtain the information needed in order to develop the best solution(s).
- The consultant searches a database of previous accommodations and provides as many potential accommodation options as possible. These may include:
  - Different approaches to job tasks
  - Proposed policy changes

- Commercially available products
- Different ways to use existing products
- Resources for device modification/fabrication.
- The consultant provides methods of implementing and maintaining the accommodation(s) and recommends processes for reviewing the effectiveness of the accommodation(s).
- JAN staff will prepare and send materials in the format requested. Information can be sent electronically, faxed or mailed using the U.S. Postal Service.
- As follow-up, the caller may be asked to complete a questionnaire regarding the recommended accommodation(s) and their usefulness. This feedback helps JAN improve services and assist future callers with accommodation solutions.

You can access the easy-to-use JAN website for accommodation information by going to [www.jan.wvu.edu](http://www.jan.wvu.edu).

### **What has been the result of JAN services?**

Jan staff has more than 100 years of cumulative experience and has delivered information on more than 100,000 job accommodations since 1984. (See section 7, “Real People, Real Jobs: Situations and Solutions,” in your *FlexAbility Toolkit* for examples of accommodations recommended by JAN that have assisted companies in hiring, retaining and promoting people with disabilities.) JAN’s Fact Sheet, a handout from the Job Accommodation Network, is included at the end of the “Workplace Accommodation” section of your *FlexAbility Toolkit*.

### **Making management decisions about accommodations**

An accommodation in the workplace is a reasonable adjustment to a job or work environment that makes it possible for an individual with a disability to perform job duties. Put another way, an accommodation is an investment an employer makes in his or her business in order to make the business more efficient or profitable. For example, when word processing systems proved to be much more efficient than typewriters, businesses invested in personal computers for their employees. Employers regularly send employees to staff training classes and seminars to upgrade their skills.

Decisions about making worksite accommodations for people with disabilities made in the same light as decisions about staff training or buying new office equipment are beneficial both to the employee and the employer.

### **Some issues to consider**

When an employee with a disability requests an accommodation, the employer and employee should discuss the job duties, how the accommodation will assist the individual in performing his or her job, and possible alternative solutions. Among the issues to be considered are:

- What are the functional limitations of the individual seeking the accommodation?
- What specific job tasks are affected by the individual's functional limitations?
- What types of equipment are used/needed to perform the job?
- Are there work place policies or procedures that affect the individual's ability to perform the job?
- Are all necessary areas of the work environment accessible to this individual?

### **Questions employers might ask?**

- How do I determine a reasonable accommodation for this particular situation?
- Where can my company obtain these products and is it possible to purchase equipment on a trail basis, or is there a facility near the place of business where the equipment may be tested?
- What if the accommodation doesn't work?
- Where can I find local resources for services like worksite evaluations?
- Who pays for the accommodation?

### **Cost considerations**

As businesses become more knowledgeable about the requirements of the American with Disabilities Act, many are able to make simple adjustments to the worksite with little or no advice from others. Data shows that many accommodations cost nothing, and more than half of all accommodations cost less than \$500.

Some businesses and agencies have established a "workplace accommodations" budget line item. That way, if an expensive item or piece of equipment is needed to increase, maintain, or improve a worker's functional capabilities, the cost alone will not be a barrier to hiring or retaining a qualified worker.

An employer does not have to supply a requested accommodation that is too costly. The employer is free to explore other less expensive alternatives if they work just as well or to state "undue hardship." It is important to remember that

accommodations or adjustments are to be considered and made on a case-by-case basis.

## **Follow-up actions**

Once the accommodation has been made, it must be maintained. For example, if the accommodation is to provide an interpreter for general meetings or other types of work situations, make sure to schedule the interpreter's services as soon as a meeting is scheduled. If the accommodation involves the purchase of equipment, make sure the equipment works properly and that it is serviced regularly. Maintenance may include training for staff sensitivity, especially if the accommodation is made for a new hire who is the first person with a disability on staff. If the individual is promoted, transferred to another part of the company or her disability changes, accommodation needs may change, and should be reassessed.

## **Keep in mind**

Fear or lack of information, both on the part of the employer and the employee, may be the greatest impediments to making an accommodation. Both employers and employees should feel free to ask questions about the accommodation itself, as well as issues related to the accommodation. It is important that accommodations already in place and working well for an employee remain in place when there is a supervisory or managerial personnel change. Review of the utility of the accommodation should be done periodically to assure the employee's maximum performance capability.

## **Tax credits and funding sources**

See the *FlexAbility Toolkit* "Tax Incentives and Funding Programs" section for more information about the following resources.

### **Tax credits**

#### Internal Revenue Service (IRS), Disabled Access Tax Credit:

This is a tax credit available to an eligible small business in the amount of 50 percent of eligible expenditures that exceed \$250 but do not exceed \$10,250. The maximum credit yearly is \$5,000. Call 1-202-622-3110 for more information.

#### IRS Architectural Barrier Tax Deduction:

Businesses of any size may deduct up to \$15,000 of the costs incurred each year to remove physical, structural, or transportation barriers in the workplace. Call 1-202-622-3110 for information.

## **Funding sources**

Oregon Office of Vocational Rehabilitation Services (OVRs, “Voc Rehab” or “VR”): Workplace accommodation assistance is available from vocational rehabilitation offices in every state. OVRs may assist with accommodation assessment and pay for part or all expenses associated with worksite modifications for vocational rehabilitation clients. If your employee is a client of VR services, he or she may request accommodation assistance from a VR counselor at the local branch office.

Funding for assistive technology and other accommodations may be available directly to individual employees from sources such as the U.S. Veterans Administration, the Social Security Administration’s PASS (Plan To Achieve Self-Support) program, non-profit disability organizations, civic or service organizations (Lions Club, VFW, Rotary Club, etc.), or the Blanche Fischer Foundation ([www.bff.org](http://www.bff.org)).

Oregon Department of Consumer & Business Services, Worker’s Compensation Division (WCD), Reemployment Assistance Unit: If an employee who requests an accommodation was injured on the job and you are an Oregon employer with workers’ compensation insurance coverage, you may be eligible for free consultation and worksite modification funds. For details call your workers’ compensation insurance carrier or the Reemployment Assistance Unit of WCD, call 1-800-445-3948 or visit [www.oregonwcd.org](http://www.oregonwcd.org).

## **Resources**

**Where can I obtain additional information about workplace accommodation?**

### **Job Accommodation Network (JAN)**

1-800-526-7234 (voice/TTY)  
<http://www.jan.wvu.edu/>

JAN is a toll-free information and referral service on job accommodation products and techniques. At the JAN website you will find accommodation ideas for 40 specific disabilities. You can call JAN for advice about individualized worksite accommodations solutions.

## **Access Technologies, Inc.**

1-800-677-7512 (Oregon only), 503-361-201 (voice), 503-361-1201 (TTY)

[www.taln.org](http://www.taln.org)

Access Technologies, Inc. is a nonprofit organization specializing in Ergonomic Assessments, Assistive Technology and Technology Training Services.

## **Oregon Department of Consumer & Business Services, Worker's Compensation Division (WCD), Reemployment Assistance Unit**

1-800-445-3948

[www.oregonwcd.org](http://www.oregonwcd.org)

The Reemployment Assistance Unit provides worksite modification assistance for employers to help return injured workers to work through the Preferred Worker Program and the Employer-at-Injury Program.

Obtain a free copy of the *Worksite Modification Digest* from the Reemployment Assistance Unit of WCD. The *Digest* gives examples of worksite modifications in several types of environments and is a source of ideas for people interested in finding workplace solutions.

## **Office of Vocational Rehabilitation Services (VR):**

OVRs Central Office: 503-945-5880 (voice), 1-877-277-0513, 503-945-5894 (TTY)

[www.dhs.state.or.us/vr](http://www.dhs.state.or.us/vr)

VR may assist with worksite and accommodation assessments and pay for expenses associated with worksite modifications for vocational rehabilitation clients. Find a list of local VR offices in the *FlexAbility Toolkit's* "Vocational Rehabilitation" section.

## **Oregon Commission for the Blind (OCB):**

Portland Headquarters: 503-731-3221 (voice), 1-888-202-5463 (toll free), 503-731-3224 (TTY).

[www.cfb.state.or.us/](http://www.cfb.state.or.us/)

OCB can help identify individualized worksite modifications and may help pay for assistive technology and accommodation needs. Find a list of the four OCB field offices in the *FlexAbility Toolkit's* "Vocational Rehabilitation" section.

**DBTAC Northwest  
ADA Information Center**  
(800) 949-4232  
[www.dbtacnorthwest.org](http://www.dbtacnorthwest.org)

The Disability Business Technical Assistance Center Northwest, ADA Information Center (DBTAC NW ADA Information Center) provides expert technical assistance, training, and dissemination of information regarding the Americans with Disabilities Act. The DBTAC Northwest ADA Information Center is the federally designated Disability Business Technical Assistance Center (DBTAC) serving Oregon, Washington, Idaho, and Alaska. Find other regional DBTACs at [www.adata.org](http://www.adata.org) or by calling 1-800-949-4232 (voice/TTY).

## **Return-to-work**

### **Facilitating return-to-work for ill or injured employees**

As a private employer, you play an important role in the return to work of valued employees who must stop working for extended periods because of sickness or injury. By maintaining communication with the worker, assisting with any necessary insurance issues, and using flexible return-to-work policies and procedures, you help assure the employee that you want him or her back and ensure a timely return to work for skilled workers.

Remember that you must comply at all times with the appropriate state and federal laws concerning civil rights, confidentiality of medical information, and workers' compensation laws, as well as with Title 1 of the ADA, the Family and Medical Leave Act, and any other disability-related state or federal laws that apply to your workplace.

### **Open lines of communication**



When a worker has a serious medical condition or has had an injury that prevents that employee from being on the job, maintain contact with the individual or, if appropriate, with the individual's family. Answer any questions the worker or worker's family may have about leave rights or benefits and offer to provide any additional information they need to which you have access.

Maintain contact throughout the worker's absence and keep the employee informed about news and developments at work. Assure the employee that you welcome hearing from her or him. If possible, visit your employee to let him know you are concerned and give you a chance to learn what information, if any, he wants shared with co-workers and with contacts outside the work site, as well as whether or not he would welcome calls or visits from co-workers. Building a relationship based on trust and mutual respect during the absence will carry over when the worker returns to the job.

### **Contact with the insurance company**

After establishing contact with the absent employee, provide information and assistance as necessary to help the worker apply for health insurance or workers' compensation benefits. The type of assistance you can give will be determined, of course, by the type of coverage the employee has. If your company is self-insured, you can directly notify the company's health insurance benefits office that you have an employee who is critically ill or seriously injured. Be available to answer any questions the carrier may have. By contacting the benefits department, you are setting a precedent for interest in the well-being good treatment of your employee.

If however, your health benefits are provided through a contract with an HMO, insurance company, or other organization that provides or administers a health insurance plan on behalf of your employees, your role is probably more limited. Provide the worker assistance in applying for benefits and services, if requested.

Some insurance plans provide for the services of a nurse consultant, who act on behalf of the employee in matters such as approval of insurance benefits and medical treatment, setting up a rehabilitation program, and the purchase of equipment. Worker's medical absence will carry over when the worker returns to the job. The consultant will also answer questions for the family.

### **Reintegration to work**

Employees who feel appreciated are much more likely to return to work promptly and to participate actively in the return-to-work process. Returning workers may require accommodations, such as modified workstations, work areas, or work

hours. Letting an employee know you are interested in being ready for the worker's return to work shows your commitment to having him or her back on the job. Instituting workplace modifications should be discussed with the employee and any rehabilitation professionals who are working with the employee. If the employee is not working with a rehabilitation professional, offer to bring in a rehabilitation engineer, vocational rehabilitation counselor, or occupational therapist for consultation.

The employee has to be fully involved in the discussions regarding modifications, including being included in the planning of modifications. Consider having the employee inspect accommodations and any physical modifications being done to the work site before he or she returns to the job to prevent surprises when the return-to-work day arrives.

### **Flexibility**

Offer the employee options such as returning to work on a part-time schedule, gradually increasing work hours, or taking part in meetings via conference calls. Be sure to discuss the length of such an arrangement with the employee, and be prepared to make adjustments along the way. If requested, send the employee's general mail, memos, and other informational materials home on a prearranged schedule, so the employee is not overwhelmed when returning to the work site.

The employee may need to continue rehabilitation after returning to work. Be as flexible as possible with the employee's work schedule while rehabilitation continues.

### **Protecting the returning worker's privacy**

Federal laws protect the privacy of the returning worker. You may share information about the worker's condition with persons at the workplace under two circumstances:

- If the worker's duties or abilities will be restricted, you may give the supervisors and managers the information about those restrictions or accommodation, or
- If the worker's condition might require emergency treatment, you may inform first aid and safety personnel about the condition, where appropriate.

You should not tell anyone else about the worker's condition, health status, or physical limitations. He or she may decide to share that information with colleagues, but that decision is for the worker to make.

## **Support and continuing support**

If the worker does tell individual co-workers about his or her condition, be open to the ideas of those co-workers on how the return could be made easier and less stressful for their colleague. Be mindful not to volunteer details about the worker's health condition or physical limitations. Instead, focus on how co-workers can help their colleague make a successful return to work.

Your continued support will be needed even after your employee returns to work. The worker needs to know you are as interested now as you were when he or she was on medical leave. Open lines of communication will continue to be important.

Most important, be sure to let the employee know that he or she continues to be a valued member of your team.

## Section 7

## Real people, real jobs: Situations & solutions

Persons with disabilities carry on normal activities of daily living; they go to work, go grocery shopping, pay their bills, and compete in athletic events.

## **Real people, real jobs—situations and solutions**

### **Myths and facts about people with disabilities**

Myths about people with disabilities interfere with their ability to experience equality in employment with non-disabled people. These myths usually result from society's lack of familiarity with disability, which has nourished negative attitudes concerning employing people with disabilities. Listed below are some common myths and the facts that tell the real story.

**Myth:** Hiring employees with disabilities increases workers' compensation insurance rates.

**Fact:** Insurance rates are based solely on the relative hazards of the operation and the organization's accident history, not on whether workers have disabilities. According to 2002 U.S. Equal Employment Opportunity Commission disability statistics, 73 percent of companies report no cost increases attributable to extending health, life, and/or disability coverage to employees or their dependents with disabilities.

**Myth:** Employees with disabilities have a higher absentee rate than employees without disabilities.

**Fact:** Studies by firms such as DuPont show that employees with disabilities are not absent any more than employees without disabilities.

**Myth:** People with disabilities are inspirational, courageous, and brave for being able to overcome their disability.

**Fact:** People with disabilities are simply carrying on normal activities of living when they drive to work, go grocery shopping, pay their bills, and compete in athletic events.

**Myth:** People with disabilities need to be protected from failing.

**Fact:** People with disabilities have a right to participate in the full range of human experiences, including success and failure. Employers should have the same expectations of and work requirements for all employees.

**Myth:** People with disabilities are unable to meet performance standards, thus making them a bad employment risk.

**Fact:** According to 2002 U.S. Equal Employment Opportunity Commission disability statistics, the performance of workers with disabilities is equal to or better than their non-disabled peers. Employees with disabilities have a 90 percent above-average job performance rating, with safety and attendance records far above the norm.

**Myth:** People with disabilities have problems getting to work.

**Fact:** People with disabilities are capable of supplying their own mode of transportation, which includes walking, using a car pool, driving, using public transportation, or taking a cab. Their modes of transportation to work are as varied as those of other employees.

**Myth:** People who are hard of hearing or have loss of hearing make ideal employees in noisy work environments.

**Fact:** Loud noises of a certain vibratory nature can cause further harm to the auditory system of people who are deaf. Persons who are hard of hearing or have loss of hearing should be hired for all jobs that they have the skills and talents to perform. No person with a disability should be judged regarding their employment capabilities without first talking to them.

**Myth:** Considerable expense is necessary to accommodate workers with disabilities.

**Fact:** Most workers with disabilities require no special accommodations. Data shows that many accommodations cost nothing, and more than half of all accommodation cost less than \$500.

**Myth:** Employees with disabilities are more likely to have accidents on the job than employees without disabilities.

**Fact:** In a 1990 DuPont study, the safety records of both groups were identical.

## **Accommodations: Situations and solutions**

In December 1994, the Office of Disability Employment Policy's Job **Accommodation Network (JAN)** reported that 68 percent of job accommodations made cost less than \$500, and further, that employers report that for every dollar spent on accommodations, the company received \$28 in benefits. In 2005, JAN published a more recent report (available online at <http://www.jan.wvu.edu/media/LowCostHighImpact.pdf>), which showed that employers who ultimately made an accommodation, reported that about half of the accommodations needed by employees cost nothing, and that the typical cost for purchased accommodations was about \$500. More than 75 percent of the employers also noted the accommodations were either "very effective" or "extremely effective." Employers reported that the benefits of making accommodations as:

- Retaining qualified employees,
- Eliminating the costs of training a new employee,
- Improving worker attendance,
- Expanding company diversity, and
- Increasing worker productivity.

When asked to compare the worker's ability with and without accommodation, the employers rated worker ability as significantly higher after implementing the

accommodation. The employers also noted some “indirect” benefits of making accommodations. These benefits included:

- Increased company productivity,
- Improved morale,
- Enhanced interactions with co-workers and customers, and
- A higher level of workplace safety.

Overall, the results indicated that the costs of most accommodations are low and that making accommodations for workers with disabilities yields substantial direct and indirect benefits to employers.

Accommodations, which are modifications or alterations, often make it possible for a qualified person with a disability to do the same job as everyone else, but in a slightly different way. Some accommodations are simple adaptations; others require technically sophisticated equipment. The essential functions of the job and the functional limitations of the individual are what the employer and the employee want to match up.

The government-funded Job Accommodation Network (JAN) is a free service that offers employers and individuals ideas about effective accommodations. JAN counselors perform individualized searches for workplace accommodations based on a job’s requirements, the functional limitations of the individual, environmental factors, and other pertinent information. JAN can be reached at 1-800-526-7234 (voice or TTY); or at [www.jan.wvu.edu](http://www.jan.wvu.edu).

Creative solutions may involve equipment changes, work station modifications, adjustments to work schedules, assistance in gaining access to the facility, and dozens of other factors, depending on the individual’s particular limitations and needs. The way the worker does the job is far less important than the fact that he can do so.

The following examples are of real situations and solutions reported by businesses and worked out with JAN, the Job Accommodation Network. Common to all these situations is that accommodations are always made on an individual basis.

## **Situations and solutions**



Below are examples of accommodations that have been made for qualified workers with disabilities. These are samples only and are not necessarily the only solution to the stated problem; a different worker with a disability facing a similar situation might require a different solution.

**Situation:** A teacher with a hearing impairment had difficulties hearing the students' voices over the squeaks of chairs and desks moving over the linoleum floor. Also, the teacher could not see some of the students' faces and therefore could not effectively lip-read.

**Solution:** To eliminate noise, used tennis balls were cut and attached to the feet of the chairs and desks. The teacher rearranged the desks in a horseshoe in order to see the faces of all students.

Cost: \$0. (The tennis balls were donated by an avid tennis player who would have thrown them away.)

**Situation:** A new restaurant employee who is legally visually impaired used a service dog to accompany him to and from work. Once at work, the employee did not need the dog while she performed her job duties.

**Solution:** A dog crate was placed in a back office with a clear path of travel in and out of the facility. The dog is crated during the workday out of contact with food products or supplies used by the restaurant.

Cost: Under \$100.

**Situation:** A company vice president with arthritis had difficulty maintaining stamina during the workday.

**Solution:** The employer provided flexibility in the vice president's work hours and a recliner for her office so that she can change body positions to cut down on fatigue.

Cost: \$750.

**Situation:** A cashier with a mild developmental disability had difficulty making change.

***Solution:*** The worker began to use a talking calculator and a chart of bills and coins.

Cost: \$10.

***Situation:*** A worker with a hearing loss was responsible for inspecting underground water utilities. When the employee was underground alone, a co-worker above ground needed to communicate with him.

***Solution:*** A wireless portable vibrating paging system was purchased for the employee.

Cost: \$445.

***Situation:*** A department store retail clerk with multiple sclerosis used a scooter and had problems with stamina.

***Solution:*** The employee was reassigned to a department on the first floor, provided with space for the scooter, given a sit/lean stool at the register, and scheduled for the first shift with every third day off.

Cost: \$200.

***Situation:*** A technical editor in the publishing industry had a spinal cord injury and needed to work lying on his back.

***Solution:*** A workstation was provided that enabled the editor to work on a computer while in a supine position.

Cost: \$2,000.

***Situation:*** An insurance claims adjuster with a chemical sensitivity became ill when exposed to certain chemicals in the air.

***Solution:*** The ventilation system in the employee's office was modified, and the co-workers were asked not to use scented products. The employee is also permitted to attend staff and training meetings remotely by speakerphone and to wear a mask when needed.

Cost: \$650.

**Situation:** A human resources manager had seasonal affective disorder, a condition requiring adequate light during a sufficient number of daytime hours to ward off depression.

**Solution:** A simple device called a sunlight box was installed in the person's office.

Cost: \$265.

**Situation:** A greenhouse worker with a developmental disability had difficulty staying on task and knowing when to take breaks.

**Solution:** A job coach provided the worker with initial training. The worker then began to carry a tape recorder that provides periodic reminders to stay on task and indicates break time. The worker also carries a set of laminated cards that show the basic list of tasks to be completed.

Cost: \$0.

**Situation:** A radio broadcast/announcer who is not sighted needs to read the AP wire news desk material.

**Solution:** The employer connected a braille printer to the incoming news service, and installed a switch to move from regular printed material to braille.

Cost: \$1,700.

**Situation:** An administrative assistant in a social service agency had a psychiatric disability that caused concentration and memory problems related to word processing, filing, and telephone work.

**Solution:** Accommodations included using soothing music in one earphone to block distractions and recorded instructions to augment written material.

Cost: \$150.

**Situation:** A police officer had a learning disability that made it difficult to take standard civil service tests.

**Solution:** The officer was permitted 50 percent more time to take the test and was allowed to use a dictionary during the examination.

Cost: \$0.

**Situation:** A laboratory technician had a permanent restriction on mobility of head and neck, making it hard to use a microscope.

**Solution:** A periscope was attached to the microscope so the worker did not need to lower her head and bend her neck to perform the job.

Cost: \$2,400.

**Situation:** A chef who is paraplegic needs a way to move around among the various workstations in the kitchen.

**Solution:** The chef was provided with a stand-up wheelchair that allowed flexibility and mobility.

Cost: Approximately \$3,000.

**Situation:** A nurse had an allergy to the latex gloves used in the medical facility where she worked.

**Solution:** The employee was given time off with pay until her unit could be cleaned to prevent exposure to latex powder before it became a powder-free glove unit. The employee was provided latex-free sterile gloves, vinyl gloves for non-sterile situations, and a latex-free stethoscope and tourniquets. To fully address the issue, the medical facility provided mandatory latex allergy education for all staff and implemented allergy assessment screening for all patients and employees. It also replaced other latex products, such as rubber bands and mouse pads, throughout the facility. This single request for an accommodation accelerated a broad initiative that took two years to fully implement and benefited all staff and patients.

Cost: \$1,500 to \$1,800.

**Situation:** A sewing machine operator experienced grand mal seizures and requested accommodation based on safety issues.

**Solution:** The sewing machine was relocated so that, if the individual had a seizure, she would not fall onto the machine or other potentially harmful objects. In addition, a local epilepsy affiliate provided education to the staff on seizures and first aid.

Cost: \$0.

**Situation:** An individual who lacked range of motion in his wrist worked in a laboratory. One of his job tasks required that he manipulate a small box of “wafers” by rotating the box a one-quarter turn into a machine. The lack of wrist movement prevented him from performing this task.

**Solution:** By placing a slant board on the table in front of the machine, the individual can place the wafer tray on the slant board at an angle and bump it in place effectively with his body.

Cost: \$40.

**Situation:** An employer had hired someone with a hearing loss for a medical handling position.

**Solution:** The individual’s hearing aids provided enough assistance for him to work safely. The employer also established set paths of travel, mirrors, traffic rules, and strobe lights, which improved the safety of all workers on the floor.

Cost: \$350 for an interpreter to facilitate communication with the employee.

**Situation:** A garage mechanic with epilepsy was unable to drive vehicles.

**Solution:** The employer negotiated with the employee’s union and reached an agreement that any qualified employee, regardless of the job held, can drive the vehicles to the mechanic’s workstation.

Cost: \$0.

**Situation:** A catalog salesperson, who had a spinal cord injury, had problems using the catalog due to difficulty with finger dexterity.

**Solution:** The employer purchased a motorized catalog rack, controlled by a single switch via a mouth stick, and provided an angled computer keyboard stand for better accessibility.

Cost: \$1,500.

**Situation:** A field geologist who had a hearing loss and worked alone in remote areas was unable to use two-way radio communication to report his findings.

**Solution:** Text telephone technology is used to allow the geologist to communicate using a cellular telephone.

Cost: \$400 plus monthly service fees for the phone.

**Situation:** A saw operator with a learning disability had difficulty measuring to a fraction of an inch.

**Solution:** The employee is provided with a wallet-sized card on which the fractions were listed on an enlarged picture of an inch. This allows the employee to compare the card with the location on the ruler to identify the correct fraction.

Cost: \$5.

**Situation:** A worker with polycystic renal (kidney) disease is a senior technician who is responsible for preparing samples for testing. The employee requires continuous ambulatory peritoneal dialysis (CAPD), four times daily with one exchange during work hours.

**Solution:** Space is made available in the dispensary for the employee to perform CAPD while at work. Storage space is also provided for extra supplies to be used in case of bad weather necessitating a second exchange at work.

Cost: \$0.

**Situation:** An assembler for a furniture manufacturer has a spinal degeneration, uncoordinated gait, and balance difficulties. The limitations involve walking, carrying materials, and balancing.

**Solution:** The employer installed a plywood platform to raise part of the workstation, suspending tools from the ceiling to balance their weight, and providing a cart to move parts.

Cost: \$200.

**Situation:** An airline programmer/analyst with post-polio fatigue brought on by stress cannot be on call 24 hours a day and work overtime as needed.

**Solution:** The employer waived the requirements of 24-hour on-call duty and overtime. The employee works the hours prescribed for the airline's older adult workers.

Cost: \$0.

**Situation:** A bank employee with traumatic brain injury (TBI) processes checks and performs other transactions. The employee's memory loss and weakness in one side of his body causes him to have difficulty numbering and placing items into a sorting machine tray.

**Solution:** A job coach/trainer supplied by a rehabilitation agency provided the employee with special training in task sequencing, and the equipment was adjusted to accommodate the employee's weakness.

Cost: \$0.

**Situation:** An experienced electronics equipment inspector paralyzed from the waist down needs rapid mobility around the plant to perform tasks related to using precision equipment and assembly inspection.

**Solution:** A heavy motorized wheelchair is stored on the premises overnight for his use in the plant. The employee uses his lightweight chair for travel. The bins containing items to be inspected are lowered, and a lapboard is provided for his specification books.

Cost: Less than \$200.

**Situation:** A nurse is unable to monitor multiple alarms on medical equipment in the critical care unit because of a severe hearing loss.

**Solution:** The hospital transferred her to an open position in the laboratory where a vibrating pager and portable TTY are used to direct her to various locations throughout the hospital.

Cost: \$634.

**Situation:** The constant vibration of the standard seat in the rig aggravates the back problem of a well-drilling rig operator.

**Solution:** A scientifically designed mechanical seat is installed which allows the operator to adjust his position as necessary and absorbs most of the vibration.

Cost: \$1,100.

**Situation:** A computer service technician with cerebral palsy has lost function of his lower extremities. He can no longer bend, stoop, balance, or get underneath the mainframe equipment to perform needed repairs.

**Solution:** An automotive repair creeper was purchased and modified with back support to enable the employee to slide easily under the mainframes.

Cost: \$30.

**Situation:** A clerk-typist with severe depression and alcoholism experiences problems with the quality and quantity of her work.

**Solution:** The employee was provided with extended sick leave to cover a short period of hospitalization and offered a modified work schedule upon her return to attend weekly psychotherapy treatment. Treatment is provided by company medical plan.

Cost: \$0.



**Situation:** A personnel manager with AIDS experiences a serious drop in energy level during the mid-afternoon hours.

**Solution:** A small chair that converts to a sleeping mat was provided. During a 90-minute afternoon break, the employee puts a “Do Not Disturb” sign on the door and takes a nap. All staff meetings are scheduled for the morning. The employee makes up the time spent napping during the evening or weekends as necessary.

Cost: \$50.

**Situation:** An individual who has a congenital heart defect that limits strenuous activity and mobility limitations due to childhood polio works as a receiving clerk. His job requires unpacking merchandise, checking it in, assigning numbers, and making price checks.

**Solution:** The employer provided a rolling chair with locking wheels, which adjusts to the level of the task.

Cost: \$200.

## **Accommodating employees with hidden disabilities**

The Americans with Disabilities Act (ADA) defines “disability” as an impairment that “substantially limits one or more of the major life activities.” Although some disabilities are easy to observe, other disabilities are not. Hidden disabilities also can result in functional limitations that substantially limit one or more major life activities. Some examples of “hidden” disabilities are learning disabilities, mental illness, epilepsy, cancer, arthritis, developmental disabilities, traumatic brain injury, AIDS, and asthma. The EEOC states, “If a job applicant or employee has a hidden disability—one that is not obvious—it is up to that individual to make the need for an accommodation known.” Although many people do not believe that hidden disabilities are bona fide disabilities, accommodating hidden disabilities can keep valued employees on the job and open doors for new employees.

The ADA requires that reasonable accommodation be provided, if necessary, for all impairments that meet the definition of “disability,” whether hidden or visible. Reasonable accommodations must be determined on a case-by-case basis to ensure effective accommodations that meet the needs of the employee and the employer.

Accommodating qualified employees with disabilities sets up a situation in which all involved win: employers gain a qualified, stable, diverse workforce; people with disabilities get jobs; and society saves money that previously funded public benefits and services for people with disabilities.

## **Situations and solutions**

**Situation:** A bowling alley worker with finger dexterity problems was having difficulty properly wiping the bowling shoes that had been returned by customers.

**Solution:** A local job coach fabricated a device that allows the individual to roll the shoes in front of a brush rather than run a brush over the shoes.

Cost: No cost as scraps of wood left over from other projects were used to make the device.

**Situation:** A high school guidance counselor with attention deficit disorder was having difficulty concentrating due to noise.

**Solution:** The school replaced the bell on his phone with a light to signal when the phone rings, soundproofed his office, and provided a floor fan for white noise.

Cost: Under \$600.

**Situation:** A machine operator with arthritis had difficulty turning the machinery control switches.

**Solution:** The employer replaced the small machine tabs with larger cushioned knobs and provided the employee with non-slip gripping gloves that enable him to grasp and turn the knobs with less force.

Cost: Approximately \$130.

**Situation:** A warehouse worker whose job involved maintaining and delivering supplies was having difficulty with the physical demands of his job due to fatigue from cancer treatment.

**Solution:** The employer provided the employee with a three-wheeled scooter to reduce walking. The employer also rearranged the layout of supplies in the warehouse to reduce climbing and reaching.

Cost: \$3,000.

**Situation:** Due to hot weather conditions, a worker with asthma was having difficulty working outside fueling airplanes and moving luggage.

**Solution:** The employer moved the individual to the midnight shift and to a position where the worker is both inside and outside the facility.

Cost: \$0.

**Situation:** A telephone consultant with traumatic brain injury was experiencing short-term memory loss and auditory discrimination problems that resulted in difficulties responding to telephone requests for information, entering information into her computer, and following oral instructions.

**Solution:** The employer provided sound absorbing office partitions that reduced noise and distractions and reprogrammed the telephone bell so that the employee could readily differentiate between her phone and those of others in the area. The employer added an anti-glare screen guard on the computer to reduce screen flicker and prevent dizziness and fatigue. Instructions, daily reminders of meetings, and other scheduled activities are provided in writing.

Cost: \$345.

**Situation:** An office manager who had been treated for stress and depression was experiencing difficulty maintaining her concentration when trying to complete assignments and meet critical deadlines.

**Solution:** The employer was placed on a flexible schedule that gave her more time for counseling and exercise. She was afforded “off” times during the week where she could work without interruption and organize her time. The supervisor trained the employee’s co-workers on stress management and provided the office manager with information about the company’s employee assistance program.

Cost: \$0.

**Situation:** An insurance adjuster was allergic to the rubber and formaldehyde in the paper products used by his employer.

**Solution:** The employer provided the employee with cotton gloves for handling paper and switched to recycled, chlorine-free paper and soy-based ink products.

Cost: Paper and ink costs increased approximately \$130 per year; the gloves cost \$10.

**Situation:** A claims representative with lupus was sensitive to fluorescent light in his office and to the radiation emitted from his computer monitor.

**Solution:** The employer changed the overhead lights from fluorescent to broad-spectrum by using a special filter that fit onto the existing light fixture and provided the employee with a flicker-free monitor and glare guard.

Cost: Approximately \$1,065.

**Situation:** A part-time college instructor with Asperger’s syndrome was experiencing auditory discrimination difficulties that prevented her from being able to make immediate decisions. This caused problems for her during meetings and annual evaluations and prevented her from meeting time lines for projects.

**Solution:** The employee is permitted to take notes during staff meetings and to provide written responses to all attendees on the questions raised during meetings within a time frame agreed upon by the meeting participants. The employee also receives a copy of meeting agendas, annual evaluations, and project expectations in advance of the face-to-face meetings and is thereby able to ask questions or provide follow-up responses in writing.

Cost: \$0.

**Situation:** A machine operator with epilepsy was experiencing difficulties remembering the steps involved in changing a part on his machine.

**Solution:** The employer provided the employee with a step-by-step checklist and written instructions on how to change the part.

Cost: \$0.

**Situation:** A production worker with a developmental disability with limited fine motor dexterity had difficulty holding the tweezers to perform the job.

**Solution:** The employer provided giant tweezers.

Cost: \$5.

**Situation:** A teacher with bipolar disorder, who works in a home-based instruction program, experienced reduced concentration and short-term memory and task sequencing problems.

**Solution:** The employee and the supervisor developed a checklist that showed the week's work and the following week's activities. Forms were adapted so that they were easy to complete, and structured steps were developed so that paper work could be completed at the end of each teaching session.

Cost: \$0.

**Situation:** An accountant with HIV was experiencing sensitivity to fluorescent light. As a result, she was not able to see her computer screen or written materials clearly.

**Solution:** The employer lowered the wattage in overhead lights and provided task lighting and a computer screen glare guard.

Cost: \$80.

**Situation:** A custodian with low vision was having difficulty seeing the carpeted area he vacuumed.

**Solution:** A fluorescent lighting system was mounted on his industrial vacuum cleaner.

Cost: \$240.

**Situation:** A computer programmer was unable to read past the vertical midline of his computer screen due to a severe brain injury.

**Solution:** The employer acquired a software package that has a feature for splitting the screen.

Cost: \$360.

## **Interactive questions to ask when considering reasonable accommodation**

Accommodations are developed on an individual basis and in partnership between the person with the disability and the employer. This teamwork generally results in cost-effective solutions. The elements to consider are the job tasks that must be performed; basic qualifications needed to do those tasks; the functional limitations of the individual; the kind of adjustments that can be made to ensure that performance standards will be met; and whether the proposed accommodation(s) will result in undue hardship to the employer.

Reasonable accommodations are as varied as the need of the individuals, the type of position in question, and the employer and employee's ingenuity. The process of considering and providing reasonable accommodation is most effective when the applicant or employee and the employer engage in an interactive process to address the need. This interactive process to clarify the value and nature of a particular accommodation should include some of the following questions:

- Does the disability require a reasonable accommodation?
- Does the reasonable accommodation remove the workplace barrier that is preventing the individual from effectively applying for a job, performing a job, or gaining access to the benefits and privileges of employment?

- Will the accommodation give the person the opportunity to function, participate, or complete on an equal basis with others?
- Are there alternatives that would accomplish the same purpose?

# Section 8      Disability Legislation



# Disability legislation

## Workplace laws

### What should I know about workplace laws?

During the last few years, employers have been exposed to many new federal laws and regulations—and their acronyms. The Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA), the Occupational Safety and Health Act (OSHA), and the Health Insurance Portability and Accountability Act (HIPPA) all have an impact upon the workplace, some more pervasively than others. Enacted at different times with different purposes, the relationship among these laws is complex. You should know about these as well as similar state-specific civil rights laws.

Below are brief descriptions of these laws, not intended to be comprehensive. Contact your state's employment complaint enforcement authority for detailed information. In Oregon, call the Bureau of Labor and Industries Technical Assistance Unit for Employers at 1-503-731-4073.

### **The Americans with Disabilities Act (ADA)**

The ADA is our country's most recent civil rights law. Passed in 1990, it is a federal anti-discrimination statute designed to remove barriers for individuals with disabilities. The ADA ensures that people with disabilities have equal access to employment opportunities. Title I prohibits discrimination in all aspects of employment against any qualified applicant or employee with a disability.

Those protected against discrimination are:

1. People who fit the act's definition of disability (see below);
2. Anyone associated with a person with a disability who is being discriminated against on the basis of that association; or
3. Anyone who is assisting a person with a disability in exercising his or her rights under the law.

The ADA definition of disability (different from definitions used by Social Security, the Veterans Administration, and Workers' Compensation) is three-pronged. A person with a disability is one who:

1. Has a physical or mental impairment that substantially limits one or more major life activity; or
2. Has a record of such impairment; or
3. Is perceived as having such an impairment.

For further information, contact the Equal Employment Opportunity Commission at 1-800-669-4000 or your local regional Disability Business Technical Assistance Center at 1-800-949-4232.

## **Family and Medical Leave Act (FMLA)**

The FMLA requires employers who employ at least 50 people within a 75-mile radius to provide up to 12 weeks of unpaid, job-protected leave for certain family and medical reasons. Employees are eligible if they have worked for a covered employer for at least one year and for 1,250 hours during the previous 12 months.

Leave must be taken for the purposes of treating one's own serious health condition; caring for the serious health condition of a parent, spouse or child; or caring for a newborn or newly adopted or foster child.

The interrelationships between the FMLA and the ADA can be complicated to sort out. For example, the FMLA allows a total of 12 weeks of leave to be taken in a 12-month period. If a person with a disability needs additional unpaid, job-protected leave, an employer must grant that leave as a reasonable accommodation under the ADA unless it is an undue hardship to do so. There is no undue-hardship exception under the FMLA.

State-specific leave laws may be more beneficial to people with disabilities; wherever both laws apply, the employer must grant the more generous leave benefits. Typically, state and federal leave laws differ in eligibility, definitions of covered family member, maximum length of leave, employee benefits, and reinstatement rights.

For further information, contact the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, at 1-800-487-9243 (voice), 1-877-889-5627 (TTY) or visit the web site at [www.dol.gov/esa/whd](http://www.dol.gov/esa/whd).

## **Occupational Safety and Health Act (OSHA)**

The OSHA reform act requires an employer to comply with government safety and health standards and to furnish a work environment that is free of recognized hazards that can or will likely cause serious injury or death. There are some areas of interaction between OSHA and ADA; these areas include standards and reporting requirements. In complying with specific OSHA standards, employers may want to consider incorporating ADA reasonable accommodation concepts. For example, OSHA requires employers to label in writing certain toxic materials

and give written materials explaining their potential dangers to employees. An ADA reasonable accommodation could also be to use the universal symbol for poison and to provide verbal warnings of the potential danger of certain toxic materials.

For more information, contact U.S. Department of Labor, Occupational Safety & Health Administration at 1-800-321-6742 or go to the web site at [www.osha.gov/feed\\_back.html](http://www.osha.gov/feed_back.html).

## **Workers' Compensation Laws**

Each state has its own workers' compensation laws and second injury fund. The employers' return-to-work policies and procedures for an employee who is injured or disabled must be consistent not only with state workers' compensation laws, but also with ADA, FMLA, and OSHA regulations. It is important to remember that the ADA does not distinguish between reasonable accommodation requirements for employees with work-related injuries and illness as opposed to non-work-related injuries and illnesses.

For further information, contact the U. S. Department of Labor at 1-866-4872 (voice), 1-877-889-5627 (TTY) or visit the web site at [www.dol.gov/dol/topic/workcomp/index.htm](http://www.dol.gov/dol/topic/workcomp/index.htm).

## **Health Insurance Portability and Accountability Act (HIPPA)**

The first federal privacy standards to protect patients' medical records and other health information provided to health plans, doctors, hospitals, and other health care providers took effect on April 14, 2003. These new standards provide patients with access to their medical records and added control over the ways in which their personal health information is used and disclosed. State laws providing additional protections to consumers are not affected by this rule.

The HIPPA privacy rule recognizes the legitimate need of insurers and other entities involved in the workers' compensation systems to have access to individuals' health information as authorized by state or other law. The HIPPA Privacy Rule does not apply to workers' compensation insurers, workers' compensation administrative agencies, or employers, except to the extent they otherwise may be covered entities. However, these entities need access to the health information of individuals who are injured on the job or who have a work-related illness in order to process or adjudicate claims or to coordinate care under workers' compensation systems. Generally, this health information is obtained from the health care providers who treat these individuals and whom the Privacy Rule may cover.

For further information, contact the U.S. Department of Health and Human Services Office of Civil Rights at 1-866-627-7748 or visit the web site at [www.hhs.gov/ocr/hippa](http://www.hhs.gov/ocr/hippa).

## **What are some suggestions for dealing with the different workplace laws?**

Human resources, legal, and risk management departments often handle issues pertaining to workplace laws in a large company. Following are some suggestions for small business owners:

- 1) Keep informed of current laws, regulations, benefits, and other employee-related information that may have an impact upon your workplace. This information is available from web sites, the State/Federal Department of Labor, the EEOC, your regional Disability Business Technical Assistance Center, your attorney, accountant, trade association, and/or insurance agent.
- 2) A company manual outlining policies and procedures should be presented to every employee with a “sign-off” sheet. There can be less of a chance of misinterpretation when the rules are spelled out on paper.
- 3) Documentation and record keeping are the most important protective steps an employer can take. Document in writing employee performance and any problems. A written job description is another essential tool for avoiding a lawsuit arising from a misunderstanding. Regularly reviewed and updated job descriptions show that the employer has identified essential job functions and given every applicant the same information about and opportunity in a position. With precise explanations of duties and responsibilities, employees know what is expected of them. Employers then have the guidelines needed to hire, supervise, evaluate, and promote with maximum effectiveness.
- 4) A corrective action plan is the best way to handle problems with employees. Warnings may eliminate the need for drastic action and help justify corrective actions if the warnings are not heeded. Tell the employee what is wrong, what needs to be done to remedy the problem, and what will happen if the problem is not resolved. Document by including a specific time frame for the employee to remedy the problem and confer with the employee regularly to evaluate progress.

- 5) A safety management program is important in preventing workplace injuries. Studies show that safety and prevention programs, along with a carefully designed work environment, reduce accidents and time off due to sick days.
- 6) Communication and common sense should be the underlying principles for dealing with employees. Open, honest, and ongoing communication will resolve many problems. The employer and employee working together can develop creative, flexible strategies to meet the goals of the laws and regulations.
- 7) There are many professionals who can provide human resource management advice in the areas of employment benefits, safety and risk management, governmental compliance, personnel research, employee communication, and labor regulations. Many employers have found that using appropriate outside assistance for problem issues leads to quicker and more easily implemented resolutions. Additionally, documenting the resource(s) contacted and taking notes about what was discussed can record a good faith effort to comply with applicable laws.

## **What should I know about the Americans with Disabilities Act (ADA)?**

Details about the ADA can be found in the “Small Business Guide: The ADA” section of your *FlexAbility Toolkit*.

### **About the Law**

The Americans with Disabilities Act (ADA) extends civil rights to people with disabilities similar to those available to other groups of Americans. Title I of the Act prohibits discrimination on the basis of disability in employment, and Title III prohibits discrimination on the basis of disability in public accommodations (places of business and non-profit agencies).

Familiarity with ADA will help owners and operators of small businesses use knowledge of the law to advantage in finding, interviewing, and hiring qualified people with disabilities, as well as in serving customers with disabilities.

### **Title I**

On July 26, 1994, the employment provisions of the Americans with Disabilities Act (Title I) became effective for all private employers with 15 or more employees. An “employee” means a full- and part-time worker who has worked for 20 or more calendar weeks in the current or preceding year. State and local government employers of any size must comply with Title I requirements.

The ADA requirements are minimum standards and may be enhanced by state laws. Many states have chosen to require compliance with ADA’s non-discrimination stipulations by employers with fewer than 15 employees. The state of Oregon, for example, requires employers of six or more employees to comply with non-discrimination requirements [ORS 659A.106]. In Washington, an employer with eight or more employees has similar requirements [RCW 49.60.404(3)]. King County in Washington State requires compliance by employers with four or more employees.

## **ADA checklist**

The following questions are designed to help small businesses determine whether they understand the intent and provisions of Title I of the ADA. The questionnaire was prepared by the Employer Committee of the President’s Committee on Employment of People with Disabilities (now the Office of Disability Employment Policy). It includes recommended employment practices that effectively support implementation of ADA.

1. Do you provide information to job applicants and current employees about their rights under ADA?

The EEOC provides posters (in several languages) that must be prominently displayed in employee work areas explaining ADA rights. Call 1-800-669-3360 to order posters. This information must also be available in alternate formats (e.g., large print, disk, audiotape, braille) if requested, and notification that alternate formats are available is required by law.

2. Have you informed managers and supervisors about their responsibilities under the ADA?

Managers and supervisors must be trained to recognize comments made in plain English that legally constitute a request for reasonable accommodation. Hearing an employee say “I’m having trouble getting these boxes off the top shelf because of the arthritis in my shoulder” may constitute a legal request for accommodation because the statement has linked an inability to perform a job task to the

employee's disability. Contact the legal department of JAN for more guidance.

3. Do your recruiting efforts extend to non-traditional sources, including organizations that serve people with disabilities?

It should also be noted that it is discriminatory to limit recruiting efforts to venues accessible only to people who can walk, see, hear, etc. You could, for example, advertise jobs on the radio or television so that people who have vision impairments will be more likely to find out about openings.

4. Have you reviewed your employment practices and procedures to assure that they do not discriminate against applicants or employees with disabilities?

It is important to review how information is disseminated to employees. Relying upon memos posted in employee work areas or emails as sole methods of communicating policy or procedure changes will overlook employees with low vision or those with severe dyslexia. Consider implementing additional ways of communicating with employees, such as holding regular meetings or designating key staff to communicate information. In this way, you can ensure that all are informed in an effective way.

5. Are your interview sites and workplace facilities accessible to people with disabilities?

You may need to hold an interview in an alternate accessible location or do the interview by phone if your facilities are not accessible. Alterations may need to be made to work sites. Contact the DBTAC Northwest (1-800-949-4232, v/TTY) for information on what constitutes physical accessibility and a checklist to use to do a self-evaluation of your facility.

6. Do you provide reasonable accommodations for applicants during the selection process and for employees as needed?

The ADA non-discrimination requirements extend to all aspects of employment, which means that you may need to provide a sign language interpreter during an interview with a deaf applicant or provide assistance in administering written tests for persons with low vision or those with learning disabilities. Applicants are responsible for requesting whatever accommodation they need. Employers are

responsible for paying for these accommodations, the cost of which, statistically, is very low. Tax credit and tax deductions are available to help offset the cost of supplying reasonable accommodations. Help with determining effective accommodations is available through the Job Accommodation Network at 1-800-526-7234 (voice) or 1-877-781-9403 (TTY) or at [www.jan.wvu.edu](http://www.jan.wvu.edu).

7. Can you identify the essential functions of your jobs and, so, focus your interview questions on the applicant's ability to perform them?

The ADA does not allow questions about disabilities or questions to elicit information about an applicant's disability. An employer may ask all applicants "Are you able to do this (name the task) with or without reasonable accommodation?" If the applicant indicates that he or she can perform the task with an accommodation, he or she can be asked, "How would you perform the task and with what accommodation(s)?" If an applicant is applying for a job in a warehouse that might require climbing ladders, for example, and that applicant walks in with a noticeable limp, this kind of question is quite appropriate. It may very well be that the applicant has no climbing limitations at all. All questions that are asked of an applicant must be job-related and consistent with business necessity.

8. If you have medical records, do you keep them in separate locked, confidential files, and are managers and supervisors vigilant in protecting the confidentiality of employees' medical information?

Medical information of any kind may not be put in regular personnel files; only key staff should have access to them, and then only on a need-to-know basis. Periodic refresher training on appropriate ways to handle employee information is a good idea.

9. Do you administer medical examinations only after an offer of employment is made, and are those examinations job-related and consistent with business necessity?

This is especially critical if employment is based on the outcome of a drug test. It is important that the employer's right to give drug tests not conflict with the right of individuals who take drugs under medical supervision not to disclose their medical condition before a conditional offer of employment is made. One way for an employer to shield himself from liability is to wait until after extending a job offer to perform a drug test. The employer may make it clear that the offer is



contingent on the person's not testing positive for the illegal use of drugs.

10. If you have collective bargaining agreements, do they support ADA implementation?

There are potential areas of conflict surrounding certain union-mandated rules when the issue of an employee's disability and need for accommodation arises. Since both the union and the employer are subject to the requirements of the ADA, all parties must comply with the ADA. It is helpful to have written into a collective bargaining agreement that the employer has the right to take whatever steps are necessary to comply with the ADA.

11. Are your social and recreational activities accessible to employees with disabilities?

The requirement not to discriminate applies to every aspect of employment, including social activities. The trip to the ocean for a bonfire on the beach to celebrate record sales is a morale-boosting reward for a sales staff. If a staff member uses a wheelchair, however, the plan may need re-thinking. How can that person get down to the bonfire to enjoy the picnic? Perhaps transferring into a dune buggy? Or by laying out a path of plywood planking from the parking lot to the bonfire? Or perhaps by relocating the celebration to a more accessible venue—an accessible park.

12. Is your employee benefits program accessible to all employees?

The ADA prohibits an employer from discriminating on the basis of disability in the provision of the benefits of employment, including insurance. An employee with a disability is entitled to the same access to insurance coverage as are non-disabled employees. The ADA does not, however, invalidate preexisting conditions clauses included in policies.

### **Additional information**

If you cannot answer “yes” to all of the preceding questions, you may wish to obtain information from:

Job Accommodation Network (JAN)  
1-800-526-7234 (voice) or 1-877-781-9403(TTY)

1-800-ADA-WORK (voice)  
1-800-526-7234 (voice)

For technical information on the legal requirements of the ADA, contact:

Equal Employment Opportunity Commission  
1-800-669-3362 (voice)  
1-800-800-3302 (TTY)

For technical information on the legal requirements of the ADA and free or low-cost training on ADA requirements, contact the DBTAC Northwest or your nearest Disability Business Technical Assistance Center, both at 1-800-949-4232 (voice/TTY).

## **Title III**

Title III of the ADA provides that companies cannot discriminate against an individual and deny that person access to “public accommodations.” Title III broadly defines “discrimination” to include “a failure to make reasonable modifications in policies, practices or procedures” or “a failure to remove architectural barriers, and communication barriers.” Therefore, a failure to take affirmative steps to provide disabled access to a public accommodation may be considered unlawful discrimination under the ADA.

On its face, Title III clearly addresses physical access to public places. Once a physical space is deemed a “public accommodation,” there may not be “discrimination” in access to that space. People with disabilities must have an equal opportunity to participate and an equal opportunity to receive benefits in the most integrated setting appropriate. They may not be denied full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations offered by a place of public accommodation. For example, the owner of a grocery store may be required to provide a ramp to improve wheelchair access to his or her store.

Public accommodations must reasonably modify policies, programs, and procedures, provide effective communication, and supply auxiliary aids and services when necessary to ensure that people with disabilities are served (unless it is an undue burden financially or administratively to do so) or unless it would fundamentally alter the nature of the goods, programs, and services offered. They have an ongoing responsibility to remove physical, communication, and transportation barriers and can take advantage of tax credits and tax deductions to offset the cost of complying with the ADA.

Title III addresses such issues as modifying “no pet” policies to permit service animals on the premises, providing sign language interpreters or information in alternate formats, ensuring that parking lots have the required number of compliant accessible parking spaces, and maintaining clear 36-inch wide aisles.

For technical information about physical accessibility, contact the U.S. Access Board’s help line at 1-800-872-2253 (voice) or 1-800-993-2822 (TTY), or your regional Disability and Business Technical Assistance Center (DBTAC) at 1-800-949-4232 (voice/TTY). The Access Board can provide federal accessibility requirement information, as can the DBTAC staff. DBTAC staff also will be able to inform you about state or local building code requirements that may be more stringent than the federal requirements.

For technical information about non-physical ADA requirements, contact the U.S. Department of Justice Office of Civil Rights at 1-800-514-0301 (voice) or 1-800-800-0383 (TTY) or visit the web site at [www.ada.gov](http://www.ada.gov). Another resource is your regional Disability Business Technical Assistance Center (DBTAC) at 1-800-949-4232 (voice/TTY).

The DBTAC also provides free or low-cost on-site training about Title III requirements.

## **Title V**

Title V of the ADA contains information about protection against retaliation. No individual or organization may discriminate against another individual who has opposed any act or practice made lawful by the ADA. Persons who have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the ADA may not be retaliated against. Moreover, it is unlawful to coerce, threaten, or interfere with any person who is trying to exercise his/her rights or helping or encouraging someone else to exercise rights under the ADA.

*Summarized from the Equal Employment Opportunity Commission’s Title I Technical Assistance Manual, the Disability Rights Education and Defense Fund’s “ADA Implementation Guide,” the United States Department of Labor web site, and information from the Northwest ADA & IT Center.*

## **Service animals**

## Frequently asked questions about service animals in places of business

### 1. What laws apply to my business?

Under the ADA, privately owned businesses that serve the public, such as restaurants, hotels, retail stores, taxicabs, theaters, and concert halls, and sports facilities, are prohibited from discriminating against individuals with disabilities. The ADA requires these businesses to allow people with disabilities to bring their service animals onto business premises in whatever areas customers are generally allowed.

### 2. What is a service animal?

The ADA defines a service animal as any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability. If they meet this definition, animals are considered service animals under the ADA regardless of whether they have been licensed or certified by a state or local government. Some states, including Oregon, grant full-service animal rights to service animals in training as well.

Service animals perform some of the functions and tasks that the individual with a disability cannot perform for himself or herself.

“Seeing eye dogs” are one type of service animal, used by some individuals who are blind to assist them with daily activities. Examples of other activities that service animals perform include:

- Alerting persons with hearing impairments to sounds;
- Pulling wheelchairs or carrying and picking up things for persons with mobility impairments; and
- Assisting persons with mobility impairments with balance.

### 3. How can I tell if an animal is really a service animal and not just a pet?

A service animal is not a pet. Some, but not all, service animals wear special collars and harness. Some, but not all, are licensed or certified and have identification papers. If you are not certain that an animal is a service animal, you may ask the person who has the animal if it is a service animal required because of a disability.

However, an individual who is going into a restaurant or theater is not likely to be carrying documentation of his or her medical condition or disability. Therefore, such documentation generally may not be

required as a condition for providing service to an individual accompanied by a service animal. Although, a number of states have programs to certify service animals, you may not insist on proof of state certification before permitting the service animal to accompany the person with a disability.

4. What must I do when an individual with a service animal comes to my business?

The service animal must be permitted to accompany the individual with a disability to all areas of the facility where customers are normally allowed to go. An individual with a service animal may not be segregated from the other customers.

5. I have always had a clearly posted “no pet” policy at my establishment. Do I still have to allow service animals in?

Yes. The ADA requires you to modify your “no pet” policy to allow the use of a service animal by a person with a disability. This does not mean you must abandon your “no pet” policy altogether, but simply that you must make an exception to your general rule for service animals.

6. My county health department has told me that only a seeing eye or guide dog has to be admitted. If I follow those regulations, am I violating the ADA?

Yes, if you refuse to admit any other type of service animal on the basis of local health department regulations or other state or local laws. The ADA provides greater protection for individuals with disabilities in this case; it takes priority over the local or state laws or regulations.

7. Can I charge a maintenance or cleaning fee for customers who bring service animals into my business?

No. Neither a deposit nor surcharge may be imposed on an individual with a disability as a condition for allowing a service animal to accompany the individual with a disability, even if deposits are routinely required for pets. However, a public accommodation may charge its customers with disabilities if a service animal causes damage so long as it is the regular practice of the entity to charge all customers for the same types of damages. For example, a hotel can charge any guest for the cost of repairing or cleaning furniture

damaged by a service animal if it is the hotel's policy to charge any guests for such damage.

8. I operate a private taxicab and don't want animals in my taxi. They smell, shed hair, and sometimes have "accidents." Am I violating the ADA if I refuse to pick up someone with a service animal?

Yes. Taxicab companies may not refuse to provide services to individuals with disabilities. Private taxicab companies are also prohibited from charging higher fares or fees for transporting individuals with disabilities and their service animals than they charge other persons for the same or equivalent service.

9. Am I responsible for the animal while the person with a disability is in my business?

No. The care or supervision of a service animal is solely the responsibility of his or her owner. You are not required to provide care or food or a special location for the animal.

10. What if a service animal barks or growls at other people, or otherwise acts out of control?

You may exclude any animal, including a service animal, from your facility when that animal's behavior poses a direct threat to the health or safety of others. For example, any service animal that displays vicious behavior towards other guests or customers may be excluded. You may not make assumptions, however, about how a particular animal is likely to behave based on your past experience with other animals. Each situation must be considered individually.

Although a public accommodation may exclude any service animal that is out of control, it should give the individual with a disability who uses the service animal the option of continuing to enjoy its goods and services without having the service animal on the premises.

11. Can I exclude an animal that doesn't really seem dangerous but is disruptive to my business?

There may be a few circumstances when a public accommodation is not required to accommodate a service animal—that is, when doing so would result in a fundamental alteration to the nature of the business. Generally, this is not likely to occur in restaurants, hotels, retail stores, theaters, concert halls, and sports facilities. But when,

for example, a dog barks during a movie, the animal may be excluded.

If you have further questions about service animals or other requirements of the ADA, you may call the U.S. Department of Justice's toll-free ADA informational line at 1-800-514-0301 (voice) or 1-800-514-0383 (TDD); or your local DBTAC such as the Northwest ADA & IT Center at 1-800-949-4232.

The Job Accommodation Network has a publication titled *Service Animals as Workplace Accommodations* at <http://www.jan.wvu.edu/media/servanim.html>.

## **Web site accessibility**

### **What should I know about accessible technology?**

What does "accessible technology" mean? It means electronic and information technology that can be used effectively by people with various disabilities. For example, developing an alternate text message to describe the pertinent information that a sighted person can derive from a picture online makes a web site accessible to a blind person who normally relies upon screen reader software.

When the ADA passed, Congress could not have envisioned the electronic revolution. Many companies now offer some (or, in some cases, possibly all) of their goods and services to the public through the Internet. Some people with disabilities face "virtual obstacles" in a the world of cyberspace. Ultimately, the courts will be required to determine whether the ADA was intended to address these potential hurdles.

Title III clearly addresses physical access to public places. Once a physical space is deemed a "public accommodation," there may not be "discrimination" in access to that space. In the context of non-physical places, the ADA's applicability is less clear. For example, there are a number of software programs that convert the text on a web site to audio. These programs may facilitate Internet usage by people who have visual impairments and, so, allow greater access to the goods and services offered on the web site. However, not all web sites are compatible with these accessibility programs. If web sites are deemed places of "public accommodation" under the ADA, the owners of these sites may be required to take steps to improve compatibility with these programs and, in essence, provide an electronic "ramp" for customers with visual impairments to enter their virtual stores.

### **How can I make my web-based services available?**

While court rulings have varied in cases brought from 1999 to the present, there have been settlement agreements requiring businesses to make their web sites accessible. It would seem prudent, therefore, for businesses to make their web sites at least minimally accessible.

Section 508 of the Rehabilitation Act mandates that all federal web sites be made accessible and specified a June 21, 2001, effective date for implementing the Section 508 standards available on their web site at [www.section508.gov](http://www.section508.gov). While there is no requirement for private businesses to follow suit, it is apparent that “good access is good business.” Substantial anecdotal information from people with disabilities shows that many rely heavily on Internet web sites to provide goods and services. The ability to obtain goods and services in this way has vastly improved the lives of many people with disabilities; the convenience afforded by being able to place orders directly from a company’s web site and have goods delivered to one’s door is a substantial boon to people for whom lack of mobility and/or transportation is a barrier.

The Section 508 standards are but one example of accessibility guidelines that can be used. The World Wide Web Consortium’s Web Accessibility Initiative has developed excellent guidelines as well, which are slightly different from and broader than Section 508 standards. They can be accessed at [www.w3c.org/WAI](http://www.w3c.org/WAI).

The Equal Access to Software and Information (EASI) web site (<http://easi.com>) contains online training and other resources for making technology accessible to people with disabilities.

ITTATC, or the Information and Technology Technical Assistance Training Center offers a web-based, self-paced course entitled, “Web Accessibility Course” at [www.ittatc.org/training/webcourse](http://www.ittatc.org/training/webcourse). Written for web site developers, it teaches techniques for creating accessible web sites.

If you would like to assess your web site’s accessibility, one quick way is to go to [www.cast.org/bobby](http://www.cast.org/bobby) and type in your web site’s address. The Bobby site will assess your web site and provide a report of possible problems at three different levels of priority. If your site meets all accessibility requirements assessed by Bobby, you have the right to display the Bobby logo on your web site. Information about how to do this is on the Bobby site.

Your regional Disability Business Technical Assistance Center (DBTAC) at 800) 949-4232 has trained staff to answer your questions and provide on-site training free or at low cost.



The Job Accommodation Network has a publication titled *Tips for Designing Accessible Web Pages* located at <http://www.jan.wvu.edu/media/webpages.html>.

## Alternative Dispute Resolution (ADR)

### When to use Alternative Dispute Resolution

The ADA supports the use of alternative dispute resolution (ADR) as a quick and fair method for settling complaints without going to court. Section 513 of the ADA, 42 U.S.C. 12212, states: “Where appropriate and to the extent authorized by law, the use of alternate means of dispute resolution, including settlement, negotiations, conciliation, facilitation, mediation, fact finding, mini-trials, and arbitration, is encouraged to resolve disputes arising under this Act.” Regulatory language reinforces this message.

ADR is a non-judicial means of settling ADA disputes outside the courtroom, thereby avoiding costly and time-consuming litigation after a complaint or dispute arises. The use of ADR mechanisms is intended to supplement, not supplant, other enforcement mechanisms available under the ADA. Both employers and employees can look to ADR as a “good sense” way to find a common ground. ADR offers both parties the classic “win-win” scenario, often resulting in creative and collaborative solutions.

In order to help implement the ADR provision, the U.S. Department of Justice (DOJ) and the Equal Employment Opportunity Commission (EEOC) included dispute resolution as a major component of their original national ADA training for disability advocates. Since then, the DOJ has continued to fund ADA training projects for community and professional mediators, and both the DOJ and the EEOC refer cases for mediation.

### Major examples of ADR techniques

The following are four commonly used ADR techniques:

**Mediation** involves the use of a trained facilitator, known as a mediator, to assist the disputing parties resolve their differences by achieving a mutually acceptable agreement.

**Arbitration** utilizes a neutral third party who hears arguments and reviews evidence from both parties and formulates a binding resolution.

**Conciliation** uses a neutral third party to help improve communication, lower tensions, and identify issues and potential solutions by shuttling information between the disputing parties.

An **ombudsman** is an appointed individual who investigates and expedites complaints and proposes changes to make the system (or employer, government agency, business, etc.) more responsive to the needs of the complaint.

## **Facts about Mediation**

The EEOC defines mediation as an informal process whereby a neutral third party assists the opposing parties reach a voluntary resolution regarding an employment discrimination charge. Mediation as a problem-solving process allows the parties to develop their own solutions through dialogue. The decision to use mediation is completely voluntary for the charging party and the employer. Mediation gives the parties the opportunity to discuss the issues raised in the charge, clarify misunderstandings, determine underlying interests or concerns, find areas of agreement and, ultimately, incorporate those areas of agreements into resolutions. A mediator does not resolve the charge or impose a decision on the parties. Instead, the mediator helps the parties to agree on a mutually acceptable resolution. The mediation process is strictly confidential.

## **Advantages of using mediation**

- Mediation often saves time and money.
- Mediation is a confidential process.
- Settlement agreements secured during mediation do not constitute an admission by the employer of any violation of laws enforced by the EEOC.
- Mediation helps maintain relationships between the parties.
- Mediation strives to treat both parties in an equitable and fair manner.

## **How do I find an ADA trained mediator?**

The EEOC, as well as other community dispute resolution organizations, offers mediation. Each EEOC district office has a mediation program in place, supplementing its internal mediation staff with pro bono and contracted mediation services. The Oregon Disabilities Commission has a list of trained mediators to assist state agencies in resolving ADA disputes.

## **Facts about arbitration**

Arbitration is a form of alternate dispute resolution commonly used in labor cases. In actuality, it is a private court in which the disputing parties agree to be bound by the decision of an neutral arbitrator who is familiar with the issues

being disputed. There can be no successful arbitration unless both sides agree to abide by the decision of the arbitrator. An arbitration agreement may be worked out in a labor contract or in a private contract prior to any dispute. However, even if parties have never signed such an agreement, they may decide to arbitrate after a dispute arises.

Once the parties select an arbitrator, the case is scheduled and heard. There is no discovery in most cases. The arbitrator will usually dispense with evidentiary rules and will hear brief statements from each side at the beginning of the case. The parties then will present their cases. There is direct examination and cross examination, as in court, but without formal rules of evidence and without many objections. The arbitrator usually will accept all evidence and will place whatever value on it he or she elects.

After the hearing, the parties may agree to a “bench decision” where the arbitrator simply announces the result with or without reasons. If the parties do not ask for a bench decision, the arbitrator will write a decision with his or her reasoning.

## **Advantages of using arbitration**

- Arbitration is private.
- Arbitration is nearly always faster than court cases.
- The parties participate in the selection of an arbitrator.

## **Additional information**

For more information on arbitration, contact the Equal Employment Opportunity Commission’s web site at [www.eeoc.gov](http://www.eeoc.gov), or call the nearest EEOC field office at 1-800-669-4000 (voice) or 1-800-669-6820 (TTY).

For information about your state’s laws regarding alternative dispute resolution, go to:

[http://www.law.cornell.edu/topics/state\\_statutes.html#alternative\\_dispute\\_reslouti](http://www.law.cornell.edu/topics/state_statutes.html#alternative_dispute_reslouti) on. In Oregon, see <http://landru.leg.state.or.us/ors/036/html>.

## **Resources**

### **Where can I obtain additional information about workplace laws?**

Review the other sections of your 2008 *FlexAbility Toolkit* for details about assistance and compliance with workplace laws.

For further information about the Americans with Disabilities Act, contact:

- DBTAC Northwest at 1-800-949-4232 (voice/TTY) [www.nwada.org](http://www.nwada.org). This is the regional Disability Business Technical Assistance Center (DBTAC) serving Oregon, Washington, Idaho, Alaska.
- Other states' regional DBTAC's at 1-800-949-4232 (voice/TTY) [www.adata.org](http://www.adata.org).
- Equal Employment Opportunity Commission at 1-800-669-4000 (voice/TTY) or [www.eeoc.gov](http://www.eeoc.gov).

For further information about Family Medical Leave Act, contact:

- Department of Labor by calling 1-866-879-243 (voice); 1-877-889-5627 (TTY); or go to their Compliance Assistance web page at [www.dol.gov/esa/whd/fmla](http://www.dol.gov/esa/whd/fmla).

For further information about the Occupational Safety and Health Act, contact:

- U.S. Department of Labor 1-800-321-6742 (voice); 1-877-889-5627 or see web site for individual State OSHA Plans at [www.osha.gov/fso/osp/index.html](http://www.osha.gov/fso/osp/index.html).
- In Oregon, call 800-922-2689 or see [www.osha.gov/oshdir/stateprogs/Oregon.html](http://www.osha.gov/oshdir/stateprogs/Oregon.html).

For further information about Workers' Compensation Laws, contact:

- U.S. Department of Labor at 1-800-487-2365 (voice); 1-877-889-5627 or see web site for individual State OSHA Plans at [www.osha.gov/fso/osp/index.html](http://www.osha.gov/fso/osp/index.html).
- In Oregon, call the Bureau of Labor and Industries Technical Assistance for Employers at 1-503-731-4200 ext. 4 or the State Workers Compensation Administrator at 1-503-947-7500.

For further information about the Health Insurance Portability and Accountability Act (HIPPA), contact:

- U.S. Dept. of Health and Human Services at 1-877-696-6775 or see web site at [www.hhs.gov/ocr/hippa/](http://www.hhs.gov/ocr/hippa/).

## **Where can I obtain additional information about service animals?**

For further information about service animals, contact:

- Northwest ADA & Information Technology Center at 1-800-949-4232 (voice/TTY) or [www.neada.gov](http://www.neada.gov).
- U.S. Department of Justice ADA Information Line at 1-800-514-0301 (voice) or 800-541-0383 (TDD).
- Job Accommodation Network at 800 526-7234 (voice) or 1-877-781-9403 (TTY).

## **Where can I obtain additional information about workplace web site accessibility?**

For further information about accessible information technology, contact:

- Web Accessibility Initiative web site [www.w3.org/WAI/](http://www.w3.org/WAI/).
- Web Accessibility in Mind web site [www.webaim.org/techniques/](http://www.webaim.org/techniques/).
- Northwest ADA & Information Technology Center at 1-800-949-4232 (voice/TTY) or [www.neada.gov](http://www.neada.gov).
- Job Accommodation Network at 1-800-526-7234 (voice) or 1-877-781-9403 (TTY).

## **Where can I obtain additional information about alternative dispute resolution?**

For further information about alternative dispute resolution (ADR), contact:

- Equal Employment Opportunity Commission at 1-800-699-4000 (voice/TTY) or [www.eeoc.gov](http://www.eeoc.gov).
- Oregon Disabilities Commission at 1-800-358-3117 (voice/TTY), 1-503-378-3142 (voice/TTY, Salem) or [www.odc.state.or.us](http://www.odc.state.or.us).

### *New Training Resources:*

#### **JAN Accommodation and Compliance Webcast Series**

In partnership with the U.S. Business Leadership Network, the Job Accommodation Network offers free web cast events. One-hour web cast events take place the second Tuesday of every month at 2:00 p.m. EST. Pre-registration is required. To read more about the current lineup of sessions go here: <http://www.jan.wvu.edu/webcast/index.htm>

Many of these JAN/USBLN Webcast events are archived and can be accessed free at: <http://www.jan.wvu.edu/webcast/archive/index.htm>.

## Section 9

# Small Business Guide: The ADA

# Small Business Guide: The ADA

An ADA checklist is included in the Disability Legislation section of your *FlexAbility Toolkit*. Information about ADA compliance and employing people with disabilities can be found throughout the *Toolkit*. The following was copied from the U.S. Equal Employment Opportunity Commission publication, *The Americans with Disabilities Act: A Primer for Small Business*, to provide an overview of the ADA's employment provisions. To view the primer on the Internet, go to:

<http://www.eeoc.gov/ada/adahandbook.html>.

## The Americans with Disabilities Act: A Primer for Small Business

### Introduction

Small businesses provide a significant source of jobs, many of which can be filled by individuals with disabilities. The approximately 25 million small businesses in the nation represent 99.7 percent of all employers, employ more than 50 percent of the private work force, and generate more than half of the nation's gross domestic product. Small businesses also provide 67 percent of all first jobs.

While the Americans with Disabilities Act (ADA) applies to all businesses with 15 or more employees, this handbook is intended primarily for businesses with 15 to 100 employees now or in the near future. It provides an easy-to-read overview of the basic employment provisions of the ADA as they relate to employees and job applicants.

### What is the ADA?

The ADA is a federal civil rights law designed to prevent discrimination against individuals with disabilities and to allow people with disabilities to participate fully in all aspects of society.



**Practice tip:** The Equal Employment Opportunity Commission (EEOC) enforces the employment provisions of the ADA. The EEOC is headquartered in Washington, D.C., and has offices throughout the United States, including Puerto Rico. If you have any questions concerning the EEOC or the ADA:

- Call the EEOC at 1-800-669-4000/1-800-669-6820 (TTY).
- Check out our website: [www.eeoc.gov](http://www.eeoc.gov).
- Contact one of our small business liaisons. You can find out who they are on our web site.

## Who is protected by the ADA?

The ADA applies to persons with physical or mental impairments that substantially limit one or more major life activities (sitting, standing, or sleeping).

- The ADA covers more than just people who are deaf, people who are blind, or people who use wheelchairs.
- People who have physical conditions such as epilepsy, diabetes, HIV infection, or severe forms of arthritis, hypertension, or carpal tunnel syndrome may be individuals with disabilities.
- People with mental impairments such as major depression, bipolar (manic-depressive) disorder, and mental retardation may also be covered.

The ADA also protects people with a record of a substantially limiting impairment. A person with a history of cancer that is now in remission may be covered.

And the ADA protects a person who is regarded (or treated by an employer) as if s/he has a substantially limiting impairment. Sometimes, a person may be covered even if s/he has no impairment or has a minor impairment, particularly if the employer acts based on myths, fears, or stereotypes about a person's medical condition. For example, an employer may not deny a job to someone who has a history of cancer because of a fear that the condition will recur and cause the employee to miss a lot of work.

The ADA only protects a person who is qualified for the job s/he has or seeks.

- The individual with a disability must meet job-related requirements such as education, training, or skills requirements.
- S/he must be able to perform the job's essential functions (i.e., its fundamental duties) with or without a reasonable accommodation.

**Practice tip:** Employers do not have to hire someone with a disability over a more qualified person without a disability. The goal of the ADA is to provide equal access and opportunities to individuals with disabilities, not to give them an unfair advantage.

### **What does the ADA require an employer to do?**

Employers covered by the ADA have to make sure that people with disabilities:

- Have an equal opportunity to apply for jobs and to work in jobs for which they are qualified;
- Have an equal opportunity to be promoted once they are working;
- Have equal access to benefits and privileges of employment that are offered to other employees, such as employer-provided health insurance or training and;
- Are not harassed because of their disability.

**Practice tip:** Harassing someone because of a disability is just as serious as harassing someone because of race, sex, religion, or national origin. If an employee complains to you that s/he is being harassed because of a disability, respond to the complaint right away by conducting an appropriate investigation and, if necessary, take action to correct the situation.

As discussed in the sections that follow, the ADA also limits the kinds of medical information that you can get from a job applicant or employee

and requires you to provide reasonable accommodations to the known limitations of qualified individuals with disabilities.

## **Hiring do's and don'ts – Pre-job offer**

**Basic rule:** The ADA does not allow you to ask questions about a disability or ask for a medical examination until after you make someone a conditional job offer.

**Practice tip:** Focus application and interview questions on non-medical job qualifications. An employer may ask a wide range of questions designed to determine an applicant's qualifications for a job.

You can ask:

- Whether an applicant has the right education, training, and skills for the position;
- Whether an applicant can satisfy the job's requirements or essential functions; and
- How much time off the applicant took in a previous job (but not why), the reason s/he left a previous job, and any past discipline.

You can't ask:

- Questions about an applicant's physical or mental impairment or how s/he became disabled (for example: questions about why the applicant uses a wheelchair);
- Questions about an applicant's use of medication; and
- Questions about an applicant's prior workers' compensation history.

Where it seems likely that an applicant has a disability that will require a reasonable accommodation, you may ask whether s/he will need one. This is an exception to the usual rule that questions regarding disability and reasonable accommodation should come after making a conditional job offer.

For example, during a job interview, you may ask a blind applicant interviewing for a position that requires working with a computer whether s/he will need a reasonable accommodation, such as special software that will read information on the screen.

## **Hiring do's & don'ts – Post-job offer**

**Basic rule:** After making a job offer, you may ask any disability-related questions and conduct a medical examination as long as you do this for every applicant in the same job category.

**Practice tip:** You may withdraw an offer from an applicant with a disability only if it becomes clear that s/he cannot do the essential functions of the job or would pose a direct threat (i.e., a significant risk of substantial harm) to the health and safety of him/herself or others. Be sure to consider whether any reasonable accommodation(s) would enable the individual to perform the job's essential functions and/or would reduce any safety risk the individual might pose.

### **Examples of what you can do:**

- If you want to give a medical examination to someone to whom you have offered a job that involves heavy labor, you must give the same exam to anyone who is offered the same kind of job.
- You may withdraw an offer of a manufacturing job involving the use of dangerous machinery if you learn during a post-offer medical exam that the applicant has frequent and unpredictable seizures.

### **Examples of what you can't do:**

- You can't withdraw an offer to an HIV-positive applicant because you are concerned about customer and client reactions or because you assume that anyone with HIV infection will be unable to work long and stressful hours.

# Getting medical information from employees

Once a person with a disability has started working, actual performance, and not the employee's disability, is the best indication of the employee's ability to do the job.

**Basic rule:** The ADA strictly limits the circumstances under which you may ask questions about a disability or require medical examinations of employees. Such questions and exams are only permitted where you have reasonable belief, based on objective evidence, that a particular employee will be unable to perform essential job functions or will pose a direct threat because of a medical condition.

Objective evidence may consist of your observation of the employee's job performance or reports from others who have seen the employee's behavior. These observations or reports may give you a reasonable belief that the employee's ability to perform essential job functions is impaired by a medical condition or that the employee poses a direct threat because of a medical condition.

**Practice tip:** If an employee with a disability is having trouble performing essential job functions, or doing so safely, do not immediately assume that disability is the reason. Poor job performance is often unrelated to a medical condition and, when this is the case, it should be handled in accordance with your existing policies concerning performance (e.g., informal discussions with an employee, verbal or written warnings, or termination where necessary). On the other hand, if you have information that reasonably causes you to conclude that the problem is related to the employee's disability, then medical questions, and perhaps even a medical examination, may be appropriate.

**Example:** A normally reliable employee, who is making frequent mistakes, tells you that the medication she has started taking for her lupus makes her lethargic and unable to concentrate. Under these circumstances, you may ask her some questions relating to her medical condition, such as how long the medication can be expected to affect job performance.

Allowable inquiries or exams: Certain types of inquiries or examinations are always permitted, even if they disclose some medical information. For example, you may ask all employees to provide a doctor's note to support a request for leave. And you may ask about an employee's medical condition and conduct medical examinations that are required by another federal law.

## Confidentially

**Basic rule:** With limited exceptions, you must keep confidential any medical information you learn about an applicant or employee. Information can be confidential even if it contains no medical diagnosis or treatment course and even if it is not generated by a health care professional. For example, an employee's request for a reasonable accommodation would be considered medical information subject to the ADA's confidentiality requirements.

**Practice tip:** Do not place medical information in regular personnel files. Rather, keep medical information in a separate medical file to which only designated officials have access. Medical information stored electronically must be similarly protected (e.g., by storing it on a separate database).

The ADA recognizes that employers may sometimes have to disclose medical information about applicants or employees. Therefore, the law contains certain exceptions to the general rule requiring confidentiality. Information that is otherwise confidential under the ADA may be disclosed:

- To supervisors and managers where they may need medical information in order to provide a reasonable accommodation or to meet an employee's work restrictions;
- To first aid and safety personnel if an employee would need emergency treatment or require some other assistance (such as help during an emergency evacuation) because of a medical condition;
- To individuals investigating compliance with the ADA and with similar state and local laws; and

- Pursuant to workers' compensation laws (e.g., to a state workers' compensation office in order to evaluate a claim) or for insurance purposes.

## **Reasonable accommodation and undue hardship**

### **What is reasonable accommodation?**

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

- A deaf applicant may need a sign language interpreter during the job interview.
- An employee with diabetes may need regularly scheduled breaks during the workday to eat properly and monitor blood sugar and insulin levels.
- A blind employee may need someone to read information posted on a bulletin board.
- An employee with cancer may need leave to have radiation or chemotherapy treatments.

### **When do I have to provide an accommodation?**

You must provide a reasonable accommodation if a person with a disability needs one in order to apply for a job, perform a job, or enjoy benefits equal to those you offer other employees. You do not have to provide any accommodation that would pose an undue hardship to your business.

### **What is undue hardship?**

Undue hardship is significant difficulty or expense to your business based on your resources and operation in providing a reasonable accommodation. You do not need to provide an accommodation that would pose significant difficulty in terms of the operation of your business regardless of cost,.

**Practice tip:** If providing a particular accommodation would result in undue hardship, consider whether another accommodation exists.

Most accommodations are not expensive:

- One-fifth cost nothing.
- More than half cost between \$1 and \$500.
- The median cost for accommodations is approximately \$240.
- Technological advances continue to reduce the cost of many accommodations.
- Some employees provide their own accommodations in the form of assistive devices or equipment.

**Practice tip:** To offset the cost of accommodations, you may be able to take advantage of tax credits, such as the Small Business Tax Credit (see Appendix A), and other sources, such as vocational rehabilitation funding.

### **Examples:**

- A store clerk with a disability asks to work part-time as a reasonable accommodation. This arrangement would leave part of one shift staffed by one clerk instead of two. This arrangement poses an undue hardship if it causes untimely customer service.
- An employee with a disability asks to change her scheduled arrival time from 9:00 a.m. to 10:00 a.m. to attend physical therapy appointments and to stay an hour later. If this accommodation would not affect her ability to complete work in a timely manner or disrupt service to clients or the performance of other workers, it does not pose an undue hardship.



## Other limitations on the obligation to provide reasonable accommodation:

In addition to actions that would result in undue hardship, you do not have to do any of the following:

- Provide an employee with an adjustment or modification that would assist the individual both on and off the job, such as a prosthetic limb, wheelchair or eyeglasses.
- Remove or alter a job's essential functions.

**Example:** A grocery store bagger develops a disability that makes her unable to lift any item more than five pounds. The store does not have to grant an accommodation removing its fifteen-pound lifting requirement if doing so would remove the main job duty of placing items into bags and handling filled bags to customers or placing them in grocery carts.

- Lower production or performance standards.

**Example:** A hotel that requires its housekeeping to clean 16 rooms per day does not have to lower this standard for an employee with a disability.

- Excuse violations of conduct rules necessary for the operation of your business.

**Example:** You do not have to tolerate violence, threats of violence, theft, or destruction of property, even if the employee claims that a disability caused the misconduct.

## How does an employee ask for an accommodation?

An employer generally does not have to provide a reasonable accommodation unless an individual with a disability has asked for one. A request for an adjustment or change in the application process or work

for a reason related to a medical condition can be made in “plain English.” The request does not have to include the terms “ADA” or “reasonable accommodation,” and the request does not have to be in writing, although you may ask for something in writing to document the request. A family member, friend, health professional, rehabilitation counselor, or other representative also may request a reasonable accommodation on behalf of an individual with a disability. For example, a doctor’s note indicating that an employee can work “with restrictions” is a request for a reasonable accommodation.

**Practice tip:** Even though you do not have to initiate discussions about the need for a reasonable accommodation, if you believe that a medical condition is causing a performance or conduct problem, you certainly may ask the employee how you can help to solve the problem and even may ask if the employee needs a reasonable accommodation.

## **What should I do when an employee requests an accommodation?**

Once a reasonable accommodation is requested, you and the individual should discuss his/her needs and identify the appropriate reasonable accommodation. Where more than one accommodation would work, you may choose the one that is less costly or that is easier to provide.

Engaging in an “interactive process” is a formal way of saying that you and the employee or applicant should talk about the request for a reasonable accommodation, especially where the need for the accommodation might not be obvious. A conversation also helps where there may be a question regarding the type of accommodation that might best help the individual apply for a job or perform the essential functions of the job.

## **Can I ask for information about an employee’s disability?**

If the need for an accommodation is not obvious, you may ask for documentation describing the individual’s disability and why the requested accommodation is needed. You may:

- Specify what types of information you are seeking about the disability and needed accommodation.
- Explain what you will need to know (e.g., the type of impairment, how the impairment limits a major life activity (like sitting, standing, performing manual tasks, or sleeping)).
- Request information about how an accommodation would enable the employee to perform job-related tasks.

Consider providing the employee's health care professional with a description of the job's essential functions to increase the likelihood that you get accurate and complete information the first time you ask for it.

## **Not enough information?**

If you don't get sufficient information in response to your initial request for documentation, explain what additional information you need and then allow the individual an opportunity to provide it. Note that there are limitations on the amount of documentation an employer may obtain. For example, you may not ask for an individual's entire medical record or for information about conditions unrelated to the impairment for which accommodation has been requested.

**Practice tip:** You may also make an accommodation without requesting any documentation at all. You are free to rely instead on an individual's description of his or her limitations and needs.

## **Procedures for providing reasonable accommodation**

**Basic rule:** The ADA does not require an employer to have a particular type of procedure in place for providing reasonable accommodations.

**Practice tip:** Consider putting procedures for providing reasonable accommodations in writing (though this may not be necessary,

particularly if you are a very small employer and have one person designated to receive and process accommodation requests).

As an alternative to written procedures, you might include a short statement in an employee handbook indicating that you will provide reasonable accommodations for qualified individuals with disabilities, along with the name and telephone number of the person designated to handle requests.

You also may want to indicate on written job applications that you will provide reasonable accommodations for the application process and during employment.

And bear in mind, whether you have written procedures or not, it is helpful to:

- Develop time frames within which accommodations generally will be provided, remembering that you must respond promptly to a request.
- Keep lines of communication open, particularly when it will take longer than expected to provide an accommodation or when you need more supporting documentation from the individual.
- Use outside resources to identify and provide reasonable accommodations (see Appendix B).
- Share your reasons with an applicant or employee so that he or she understands why you denied a request.

## **Types of reasonable accommodations**

**Basic rule:** There are many accommodations that enable individuals with disabilities to apply for jobs, work productively, and enjoy equal employment opportunities. In general, they can be grouped into the following categories.

**Practice tip:** There are tax incentives available to many small businesses for providing some of the reasonable accommodations described below (See Appendix A).

- **Equipment.** Purchasing equipment or modifying existing equipment is a form of reasonable accommodation. For example, a medical clinic could purchase amplified stethoscopes for use by hearing-impaired nurses, physicians, and other members of the health care staff.
- **Accessible materials.** You may have to make information accessible to an individual with a disability who cannot read or understand written materials. Simple accommodations include having someone read a list of employee conduct rules to an employee with a visual impairment or providing a simpler explanation of the rules for an employee with a cognitive disability.
- **Changes to the workplace.** Making changes to your facilities or work areas is a form of reasonable accommodation. For example, a small retail store could lower a paper cup dispenser near the water fountain and reconfigure store displays so that an employee in a wheelchair can get water and have access to all parts of the store.
- **Job restructuring.** Job restructuring includes shifting responsibility to other employees for minor tasks (or “marginal functions”) that an employee is unable to perform because of a disability and altering when and/or how a task is performed. For example, if moving boxes of files into a storage room is a function that a secretary performs only from time to time, this function could likely be reallocated to other employees if the secretary’s severe back impairment makes him unable to perform it.

You do not have to remove the essential functions (i.e., fundamental duties) of the job. And where your workforce is small and all workers must be able to perform a number of different tasks, job restructuring may not be possible. For instance, where an employee has to spend a significant amount of time retrieving heavy boxes of merchandise and loading them into customers’ cars as part of his job, he

probably cannot be relieved of this duty as an accommodation.

**Working at home.** If this accommodation is requested, consider whether any or all of the job's essential functions can be performed from home. Computers, internet access, telephones, and fax machines make it possible to do many kinds of jobs from home at least some of the time. For example, a telemarketer, proofreader, researcher, or writer may have the type of job that can be performed at least partly at home.

But where the work involves use of materials that cannot be replicated at home, or where direct customer and co-worker access or immediate access to documents in the workplace is necessary and cannot be anticipated in advance, working at home likely would present an undue hardship.

- **Modified work schedules.** This may involve adjusting arrival or departure time, providing periodic breaks, or altering when certain job tasks are performed. For example, an accountant for a small employer whose medication for depression causes extreme grogginess in the morning may not be able to begin work at 9:00 a.m., but could work from 10:00 a.m. until 6:30 p.m. without affecting her ability to complete tasks in a timely manner.

However, it may be an undue hardship to adjust the arrival time for someone on a construction crew if it would affect the ability of others to begin work.

- **Leave.** Allowing an employee to use accrued paid leave and providing additional unpaid leave once an employee has exhausted all available leave is also a form of reasonable accommodation. Leave may be provided for a number of reasons related to a disability, such as to allow an employee to receive or recover from treatment related to a disability or to recover when a condition “flares up.”

Not all requests for leave must be granted as a reasonable accommodation. For example, where a job is highly specialized, so that it would be difficult to find someone to perform it on a temporary basis, and where the employee cannot provide a date of return, granting leave and holding the position open may constitute undue hardship.

For example, if the executive chef at a top restaurant requests leave for treatment of her disability but cannot provide a fixed date of return, the restaurant can show undue hardship because of the difficulty of replacing, even temporarily, a chef of this caliber. Moreover, it leaves the restaurant unable to determine how long it must hold open the position or to plan for the chef's absence.

In general, if an employee asks for leave related to a medical condition, determine whether the request is covered by your general leave policy for all employees. If yes, grant leave according to your policy.

If an employee requests more leave than would be available under your policy, consider whether additional leave could be provided as a reasonable accommodation without undue hardship.

**Policy modifications.** Modifying a workplace rule because of an employee's disability may be a form of reasonable accommodation. For example, a retail store that does not allow its cashiers to drink beverages at the checkout and limits them to two 15 minute breaks per day may need to modify one rule or the other to accommodate an employee with a psychiatric disability who needs to drink a beverage once an hour due to dry mouth, a side effect of her psychiatric medication.

**Job coaches.** A job coach who assists in training or guiding the performance of a qualified individual with a disability may be a form of reasonable accommodation. For example, a custodian with mental retardation might have a full-time job coach paid for by an outside agency initially to help the

worker learn required tasks and then, periodically thereafter, returns to help ensure he is performing the job properly.

**Reassignment.** Reassignment may be necessary where an employee can no longer perform his or her job because of a disability. In this case, the employee must be qualified for the new position. Reassignment should be to a position that is equal in pay and status to the one held or as close as possible if an equivalent is not vacant. You do not have to bump another employee, promote an employee with a disability, or create a position for the individual.

In addition, Reassignment is not available to applicants; therefore, you would not have to look for a job for a person with a disability who is not qualified to do the job for which he or she applied, unless you do this for all applicants for other available jobs.

For example, the host responsible for escorting diners to their seats at one of three restaurants operated by your business can no longer perform the essential functions of her position because a disability requires her to remain mostly sedentary. However, she is qualified to perform the duties of a vacant cashier position, which has the same salary, at one of your other restaurants. You must offer her a reassignment to the cashier position at the other restaurant as a reasonable accommodation.

However, after being injured, a construction worker asks you to reassign him to a vacant, higher-paid construction foreman position for which he is qualified because he can no longer perform his job duties, even with accommodation, due to a resulting disability. You do not have to offer this reassignment because it would be a promotion.

## **Safety concerns**



**Basic rule:** The ADA allows you to ask questions related to disability and even require a medical examination of an employee whose medical condition appears to be causing performance or safety problems.

**Direct threat:** You also may reject a job applicant with a disability or terminate an employee with a disability for safety reasons if the person poses a direct threat (i.e., a significant risk of substantial harm to self or others). Employers have legitimate concerns about maintaining a safe workplace for all employees and members of the public and, in some instances, the nature of a particular person's disability may cause an unacceptable risk of harm.

**Practice tip:** You must be careful not to exclude a qualified person with a disability based on myths, unsubstantiated fears, or stereotypes about that person's ability to safely perform the job. The determination cannot be based on generalizations or unfounded fears about the condition.

For example, you cannot automatically prohibit someone with epilepsy from working around machinery. Some people with epilepsy know when a seizure will occur in time to move away from potentially hazardous situations. Sometimes seizures occur only at night, making the possibility of a seizure on the job remote.

Nor can a deaf mechanic be denied employment based on the fear that he has a high probability of being injured by vehicles moving in and out of the garage if an accommodation would enable him to perform the job duties with little or no risk, such as allowing him to work in a corner of the garage facing outward so that he can see any moving vehicles.

Nor can a restaurant deny someone with HIV infection a job handling food based on customers' fears that the condition could be transmitted, since there is no real risk of transmitting HIV through food handling.

Consider:

- The particular applicant's or employee's present ability to safely perform the essential functions of the job based on objective evidence and reasonable medical judgment; and
- The duration of the risk, the nature, and severity of the potential harm, the likelihood that the potential harm will occur, and the imminence of the potential harm.

**Food safety – a special rule:** Under the ADA, the Department of Health and Human Services annually issues a list of the infectious or communicable diseases transmitted through the handling of food. The harm in these cases is serious and likely to occur, not remote and speculative. (Copies of the list may be obtained from Center for Infectious Diseases, Centers for Disease Control & Prevention, 1600 Clifton Road, N.E., Mailstop C09, Atlanta, GA 30333 (404) 639-2213.)

- If an individual with a disability has one of the infectious or communicable diseases included on the list, and if the risk of transmitting the disease associated with the handling of food cannot be eliminated by reasonable accommodation, an employer can refuse to assign the individual to a job involving food handling.
- If the individual is a current employee, the employer must consider whether the individual can be accommodated, absent undue hardship, by reassignment to a vacant position not involving food handling.

## **Drug & Alcohol use**

Current illegal use of drugs is not protected by the ADA. You do not need to hire or retain someone who is currently engaging in the illegal use of drugs. Tests for the current illegal use of drugs are permitted at any time prior to or during employment. While people with alcoholism may be individuals with disabilities, the ADA still allows employers to hold them to the same performance and conduct standards as all other employees, including rules prohibiting drinking on the job. For example, an employer may fire an employee who is drinking alcohol while on the job if it has a uniformly applied rule prohibiting such conduct.

However, there may be times when you have to accommodate an employee with alcoholism. For example, an employer may have to modify a rule prohibiting personal phone calls at work for an employee with alcoholism who periodically has to contact his AA sponsor if the employee has a need to do so during work hours.

## **What to do if a charge is filed against your business**

**Basic rule:** A charge means that someone has alleged that your business discriminated against him or her on a basis that is protected under Federal equal employment opportunity law (i.e., race, color, national origin, religion, sex, age, or disability). A charge does not constitute a finding that you did, in fact, discriminate.

### **What's the process?**

The EEOC will send you a copy of the charge and request a response and supporting documentation. Even if you believe that the charge is frivolous, submit a response to the EEOC and provide the information requested. If the charge is not dismissed by the EEOC when it is received, that means there is some basis for proceeding with further investigation. There have been many cases where it was unclear whether discrimination occurred and an investigation was necessary.

You are encouraged to present any facts that you believe show allegations are incorrect or do not amount to an ADA violation. The EEOC may investigate the charge. If it finds reasonable cause to believe that you discriminated against the charging party, it will invite you to conciliate the charge by offering you a chance to resolve the matter informally. In some cases, where conciliation fails, the EEOC will file a civil court action.

The EEOC notice also may offer mediation as a method for dealing with the charge a less expensive and time-consuming way of resolving an employment dispute even before it investigates the charge.

**Practice tip:** EEOC's mediation program is free. The program is voluntary and all parties must agree to take part. The mediation process is confidential. Neutral mediators assist employers and charging parties in reaching mutually agreeable solutions. If the charge filed against your company is eligible for mediation, you will be notified by the EEOC of your opportunity to take part in the mediation process. In the event that mediation does not succeed, the charge is referred for investigation.

If the EEOC finds no discrimination, or if conciliation fails and the EEOC chooses not to file suit, it will issue a notice of a right to sue, which gives the charging party 90 days to file a civil court action.

It is unlawful to retaliate against the charging party for filing the charge even if you believe the charge without merit. If an employee is fired for what an employer believes to be a meritless charge, the employee has a strong claim that the employer unlawfully retaliated against her even assuming the charges of discrimination were without merit.

For a detailed description of the process, check out the EEOC website, [www.eeoc.gov](http://www.eeoc.gov), and click on the link to “Small Business Information,” and then on the link to “When A Charge Is Filed Against My Company.”

## **ADA Guide for Small Businesses**

The following excerpts are from the U.S. Small Business Administration and U.S. Department of Justice Publication *ADA Guide for Small Businesses* and provide an overview of the public accommodation provision of the ADA. To view the guide on the Internet, go to [www.sba.gov/ada/smbusgd.pdf](http://www.sba.gov/ada/smbusgd.pdf).

### **Businesses that serve the public**

#### **Public accommodations**

Private businesses that provide goods and services to the public are called public accommodations in the ADA. The ADA establishes requirements for twelve categories of public accommodations, including stores and shops, restaurants and bars, service establishments, theaters, hotels, recreation facilities, private museums, and schools and others. Nearly all types of private businesses that serve the public are included in the categories, regardless of size.

If you own, operate, lease, or lease to a business that serves the public, then you are covered by the ADA and have obligations for existing facilities as well as for compliance when a facility is altered or a new facility is constructed. The “grandfather provisions” that are often used by building code officials do not exempt existing facilities.

## **Existing facilities**

Many business facilities were built without features to accommodate people with disabilities, including people who use wheelchairs. This lack of accessibility makes it impossible for many people with disabilities to take part in everyday activities, such as going to work, eating in a restaurant, or shopping in a store. The ADA recognizes that, for people with disabilities to participate in the everyday activities in their communities, they need to have access to the goods and services provided by businesses.

While it is not possible for many businesses, especially small businesses, to make their facilities fully accessible, there is much that can be done without difficulty or expense to improve accessibility. Therefore, the ADA requires that accessibility be improved without taking on excessive expenses that could harm the business.

If you own or operate a business that serves the public, you must remove physical “barriers” where the process of doing so is “readily achievable,” without much difficulty or expense. The “readily achievable” requirement is based on the size and resources of the business; larger businesses with more resources are expected to take a more active role in removing barriers than small businesses. The ADA also recognizes that economic conditions vary. When a business has resources to remove barriers, it is expected to do so; but when profits are down, barriers removal may be reduced or delayed. Barrier removal is an ongoing obligation—you are expected to remove barriers in the future as resources become available.

## **Architectural barriers**

Architectural barriers are physical features that limit or prevent people with disabilities from obtaining the goods and services that are offered. They can include parking spaces that are too narrow to accommodate people who use wheelchairs; a step or steps at the entrance or to part of the selling space of a store; round doorknobs and door hardware that are difficult to grasp; aisles that are too narrow for a person using a wheelchair, electric scooter, or a walker; a high counter or narrow

checkout aisles at a cash register; fixed tables in eating areas that are too low to accommodate a person using a wheelchair.

## **Removing architectural barriers**

In evaluating what barriers need to be removed, a business should look to the *ADA Standards for Accessible Design* as a guide. These standards are part of the ADA Title III regulations. Seeking input from people with disabilities in your community can also be an important and valuable part of the barrier removal process.

When a business removes barriers, it should follow the design requirements for new construction in the *ADA Standards for Accessible Design*. In some cases, existing conditions, limited resources, or both will make it not “readily achievable” to follow these standards fully. If this occurs, barrier removal measures may deviate from the standards so long as the measures do not pose a significant risk to the health or safety of individuals with disabilities or others.

## **Priorities for barrier removal**

When deciding which barriers to remove first, we suggest that you set a priority for providing access to the business from public sidewalks, parking, and public transportation and then provide access to the areas where goods and services are made available to the public. Once these barriers are removed, you should provide access to public toilet rooms (if toilet rooms are provided for customer use). When these barriers have been removed, focus on remaining barriers, including those that limit use of public telephones and drinking fountains.

## **Examples of barrier removal**

The *ADA Guide for Small Businesses* can be viewed at [www.sba.gov/ada/smbusgd.pdf](http://www.sba.gov/ada/smbusgd.pdf). It provides details about barrier removal in the following areas:

- Accessible parking and van accessible spaces (page 4)
- Accessible entrances (page 6)
- Doors at entrances to businesses (page 8)
- Turnstiles and security gates at entrances (page 8)

- Shelves and maneuvering space (page 10)
- Sales and service counters (page 11)
- Serving counters (page 12)
- Fixed seating and tables (page 13)

## **Policies and procedures**

Businesses must review their policies and procedures for serving customers and change those that exclude or limit participation by people with disabilities. For example, if a store has a policy to exclude all animals, the policy should be changed to permit people who use service animals, such as “seeing-eye-dogs” and “hearing-assist-dogs,” to enter the store with their service animals. A store that has a special accessible entrance that remains locked during business hours will need to change the policy and keep the door unlocked when the store is open. If security is a problem, an accessible call box or buzzer (identified by a sign and mounted in an accessible location and height) should be installed to enable people with disabilities to call staff to unlock the door. A restaurant that restricts seating of people with disabilities in one area must revise the policy to permit them the range of choices enjoyed by others.

### **Communicating with customers**

Customers who have hearing or speech disabilities may need to communicate with sales staff without using speech. The method of communication will vary depending on the abilities of the customers and on the complexity of the communications that are required. For example, some people who are deaf are able to use speech but unable to understand words spoken by others while other people who are deaf are not able to communicate with speech. People with speech or hearing disabilities may require extra time to complete their message or extra attention by staff to understand what is being said. When communication by speech is not possible, simple questions, such as price of an item, may be handled by exchanging written notes or a mixture of speech and written notes. Staff should be aware of the need to use notes or both speech and communication with pen and paper. It is appropriate to ask the customer their preference for simple communication.

When more complex or lengthy communication is needed, it may be necessary to provide a sign language interpreter, as, for example, in negotiating the purchase of an automobile or home. Most business communications with customers involve only simple communications that can be done using a pen and paper.

Many people with hearing or speech disabilities use a text telephone (TTY), formerly called a telecommunications device for the deaf (TDD), instead of a standard telephone. This device allows someone who is deaf or hard of hearing or someone with a speech impairment to communicate by telephone by sending and receiving typed communications.

To make it easy for people who use a TTY to communicate with businesses and individuals who do not have a TTY, the ADA established a free state-by-state relay network nationwide to handle voice-to-TTY and TTY-to-voice calls. Customers who use a TTY to make telephone calls may telephone your business using a relay network by first calling 711. The relay consists of an operator with a TTY who translates TTY and voice messages. For example, a caller using TTY calls the relay operator, who then calls your business. The caller types the message into the TTY, and the operator reads the message to you. You respond by talking to the operator who then enters your message into the TTY.

## **New construction and alterations**

The ADA requires that newly constructed facilities, first occupied on or after January 26, 1993, meet or exceed the minimum requirements of the *ADA Standards for Accessible Design*. Alterations to facilities, spaces or elements (including renovations) on or after January 26, 1992, also must comply with these standards. If you build a new facility or modify your existing one (for example, restriping the parking area, replacing the entry door or renovating the sales counter), make sure to consult the *Standards* and the Title III regulations for the specific requirements. Renovations or modifications are considered to be alterations when they affect the usability of the element or space—for example, installing a new display counter, moving walls in a sales area, replacing fixtures, carpet or flooring, and replacing an entry door.



## Section 10

## Glossary of commonly used terms

## Glossary of commonly used terms

**Accessible:** Easy to approach, enter, operate, participate in, or use safely, independently, and with dignity by a person with a disability. May pertain to a site, facility, work environment, service or program.

**Affirmative action:** Proactive action to accomplish the purposes of a program that is designed to increase the employment opportunities of certain groups. May involve goals, timetables, or specific steps to assure that objectives are reached.

The Americans with Disabilities Act does not mandate affirmative action for persons with disabilities, but does require that covered entities ensure nondiscrimination. Title 5, section 503 of the Rehabilitation Act does require that federal contractors take affirmative action in employment of persons with disabilities.

**Alternate Dispute Resolution (ADR):** A variety of fair and efficient procedures for the resolution of disputes that represent alternatives to court adjudication. Must be entered into voluntarily by all parties. Some of the more common ADR procedures include arbitration, mediation, and conciliation. ADR is encouraged under the American with Disabilities Act as a means of resolving conflicts.

**Alternate format materials:** Materials or other auxiliary aids and services that allow persons who have visual or other impairments to have full access to written materials. Alternate formats include braille, large print, audiocassette recordings, and electronic copies on computer disks.

**Americans with Disabilities Act (ADA):** A comprehensive civil rights law enacted in July 1990 that makes it unlawful to discriminate in private and public sector employment against a qualified individual with a disability.

The ADA also prohibits discrimination against individuals with disabilities in state and local government services, employment, public accommodations, transportation, and telecommunication. The private sector employment provisions (Title I) became effective for employers with 25 or more employees on July 26, 1992, and on July 26, 1994, for employers of 15 or more employees. The Act's public sector employment provisions (Title II) became effective on January 26, 1992. In some cases, state or local laws may supercede ADA provisions. In the state of Washington, for example, employers with eight or more employees must comply with non-discrimination laws, and in King County, Washington, employers with four or more employees must comply. In Oregon, employers with six or more employees must comply.

**ASL – American Sign Language:** ASL is a visual-gestural language used by members of the deaf community throughout North America and parts of Canada, and many other places, too. ASL uses a different system of grammar than English and much of the vocabulary is different. ASL and “Signed English” are two separate things.

**Auxiliary aids and services:** Devices or services that accommodate the functional limitation of a person with a communication-related disability. The term includes qualified interpreters and communication devices for persons who are deaf or hard of hearing; qualified readers, taped texts, braille, or sighted guides for persons with visual impairments; adaptive equipment for persons with other communication disabilities.

**Centers for Independent Living (CILs):** Also called Independent Living Centers (ILCs), CILs are community based, not-for-profit, non-residential organizations that provide advocacy, peer counseling, independent living skills training, and information and referral to persons of any age with any type of disability. Individual CILs may provide information or referrals for employment, job shadowing days, and other services to employers and employees. A list of Oregon CILs can be found in the *FlexAbility Toolkit* Resource Guide.

**Computer Assisted Real-Time Transcription (CART):** CART makes verbal communication accessible to persons who have a hearing impairment and who do not use sign language. It requires a trained person, similar to a stenographer, who uses specific equipment to transcribe verbal communication in process. The transcription may appear on a computer monitor or projected onto a screen. The service is similar to closed captioning during a live television program.

**Disability Business Technical Assistance Centers (DBTAC’s):** Federally funded network of 10 centers that provide training, technical assistance, and information dissemination on the ADA. The Region X DBTAC (DBTAC NW) is located at Western Washington University and serves Alaska, Idaho, Washington, and Oregon.

**Essential job functions:** The fundamental job duties of an employment position. The term “essential functions” does not include tasks marginal to the position.

**Equal Employment Opportunity:** Nondiscrimination in hiring, firing, compensation, promotion, recruitment, training, and other terms and conditions of employment regardless of race, color, sex, age, religion, natural origin or disability.

**Individual with a disability:** As defined by the ADA, a person who has a physical or mental impairment that substantially limits one or more of that

person's major life activities, who has a record of such impairment, or who is regarded as having such an impairment.

**Invisible (hidden) disabilities:** Disabilities that are not readily apparent, such as asthma, arthritis, chronic fatigue syndrome, epilepsy, kidney disease, diabetes, cancer, chronic depression, learning disabilities, and mild developmental disability, among others.

**Job coach:** A person hired by a placement agency or provided through an employer to furnish specialized on-site training to assist an employee in learning and performing a job and adjusting to the work environment.

**Major life activity:** Basic activities that the average person in the general population can perform with little or no difficulty, such as caring for herself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. The ADA contains no definitive list of such activities; court cases show examples of a wide range of activities considered to be major or central to life.

**Mentoring:** Mentoring is an educational process wherein the mentor serves as a role model, trusted counselor or teacher, who provides opportunities for professional development, growth, and support to a less experienced individual. Mentees in career planning or employment settings receive information, encouragement, and advice as they plan their careers.

**Natural supports:** Supports provided to an employee with a disability by supervisors and co-workers, such as mentoring, friendship, socializing at breaks or after work, providing feedback on job performance, or learning a new skill together. Natural supports are particularly important in integrating the employee with a disability into his or her workplace. They are a permanent part of the workplace and facilitate long-term job retention.

**Oregon Commission for the Blind (OCB):** The state agency that provides vocational rehabilitation services to people who are blind or visually impaired.

**One Stop Career Centers (One Stops):** There are One Stop Career Centers located throughout Oregon and in communities nationwide. One Stops offer an assortment of career development and job search services that can be used by anyone, including people with disabilities. One Stop Career Centers consist of a variety of agencies and programs that work together to deliver services at one location. State, county, and local government agencies such as vocational rehabilitation, community colleges, community-based nonprofit organizations, business and labor join forces at One Stops to make it easier for job seekers to find work, get trained or change careers.

**Personal care assistant (PCA):** PCAs assist people with disabilities to be as independent as possible by providing support and assistance with activities of daily living and by organizing social, cultural, and other activities upon request.

**Qualified individual with a disability:** A person with a disability who satisfies the requisite skill, experience, education, licenses, and any of the other standards of a particular job (held or applied for), and who, with or without reasonable accommodation, can perform the essential functions of that job.

**Readily achievable:** Easily accomplished without much difficulty or expense. In determining whether an action is readily achievable, an employer will need to consider the nature and cost of the action, the company's overall financial resources, and the effect of the action on the company (or parent company's) operations.

**Reasonable accommodation:** Modification or adjustment to a job application process that enables a qualified applicant with a disability to be considered for a position; modifications or adjustments to the work environment, or to the manner or circumstances under which a position is customarily performed that enables qualified individuals with disabilities to perform the essential functions of that position; or modifications or adjustments that enable a covered entity's employee with a disability to enjoy the same benefits and privileges of employment as its other similarly situated employees without disabilities.

**Speech to speech (STS):** Speech to Speech can be reached by dialing 711. An STS phone call is a relayed call. A communication assistant is a three-way call. STS is a service mandated by the Federal Communications Commission that enables people with a speech disability to use their own voice, voice prosthesis, or communication device to make a phone call. In general, STS can be used by anyone with a speech disability or anyone who wishes to call someone with a speech disability. STS calls can also be made by people, or to people, who use a TTY, or other TRS communication modes, such as VCO (voice carry-over) and HCO (hearing carry-over).

**Supported employment:** An employment option that facilitates competitive work in integrated work settings for individuals with the most severe disabilities, who, because of the nature and severity of their disability, need ongoing support services to perform their job, and for whom competitive employment has not traditionally occurred—those with psychiatric, developmental disability, traumatic brain injury, for example. Supported employment provides assistance in the form of job coaches, assistive technology, specialized job training, and individually tailored supervision.

**Title V of the Rehabilitation Act of 1973:** The law that prohibits discrimination on the basis of a disability by the Federal government, Federal contractors, recipients of Federal financial assistance, and federally conducted programs and activities.

**TTYs:** (also known as “text typewriter”; formerly known as Telecommunication Device for the Deaf, or TDD) is a device that allows someone who is deaf or hard of hearing or someone with a speech impairment to communicate by telephone by sending and receiving typed communications. The TTY user can communicate directly with someone else who also uses a TTY, or with someone who does not use a TTY by calling a relay operator who voices the TTY user’s typed communications. Dial 711 to reach the TTY Relay service.

**Undue hardship:** A significant difficulty or penalty with respect to the size, resources, nature, and structure of the employer’s operation; the availability of outside funding sources; and the availability of tax credits and deductions. With respect to an accommodation, significant difficulty or expense incurred by a covered entity. Where the facility making the accommodation is part of a larger entity, the structure and overall resources of the larger organization are considered as well as the financial and administrative relationship of the employing facility to the larger organization.

**Vocation Rehabilitation (“VR” or “Voc Rehab”):** The state agency that is responsible for providing vocational rehabilitation services to persons with disabilities. Services are provided to assist in preparing for, securing, retaining, or regaining employment. In Oregon, the state VR agency is the Department of Human Services, Office of Vocational Rehabilitation Services (OVRs).

**Worksource:** Oregon’s One Stop system.

However, simple maintenance, such as repainting a wall, is not considered an alteration by the ADA.

### **Local codes and ADA compliance**

Many communities also have state and local accessibility codes enforced by local building inspectors. When a local accessibility code exists, you must follow both the code and the ADA requirements.

## **ADA information sources**

For a list of ADA information sources, see the Resources segment in the Disability Legislation Section of your *FlexAbility Toolkit*.





# Employer resource guide

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# Employer resource guide

## Top five Oregon resources

These five organizations have experience with disability issues or employment of people with disabilities. They can provide training, information, and referral on most topics related to employment of people with disabilities.

### **Oregon Business Leadership Network (OBLN)**

(503) 281-1424

The OBLN is a statewide consortium of employers committed to creating disability-friendly workspaces and customer places. Members regularly meet to share information and network with other businesses around hiring, retaining, recruiting, and promoting return to work for employees with disabilities. OBLN also links its employer affiliates with expertise through strategic partnerships with Vocational Rehabilitation, independent living centers, Commission for the Blind, Oregon Disabilities Commission, Workforce Oregon, and others. See the OBLN web site for related information and links to Oregon resources. Contact the U.S. Business Leadership Network at [www.usbln.com](http://www.usbln.com) to find BLNs in other states.

### **DBTAC Northwest**

#### **ADA Information Center**

(800) 949-4232

[www.dbtacnorthwest.org](http://www.dbtacnorthwest.org)

The Disability Business Technical Assistance Center Northwest, ADA Information Center (DBTAC NW ADA Information Center) provides expert technical assistance, training, and dissemination of information regarding the Americans with Disabilities Act. The DBTAC Northwest ADA Information Center is the federally designated Disability Business Technical Assistance Center (DBTAC) serving Oregon, Washington, Idaho, and Alaska. Find other regional DBTACs at [www.adata.org](http://www.adata.org) or by calling 1-800-949-4232 (voice/TTY).

### **Oregon Disabilities Commission (ODC)**

1-800-358-3117 (voice and TTY, in-state only),

(503) 378-3142 (voice/TTY, Salem)

[www.odc.state.or.us](http://www.odc.state.or.us)

The Oregon Disabilities Commission provides information, referrals, and programs for Oregonians with disabilities and employers interested in disability issues. Services and programs include ODC Disability Technical Assistance Center (ADA information), referral services for people who are deaf or hard of hearing, and the Client Assistance Program, which answers questions and works

with employees and employers to attain success for people with disabilities in the workplace.

### **Office of Vocational Rehabilitation Services (OVR)**

Administration: 877-277-0513 (Toll Free),  
(503) 945-5880 (Voice), (503) 947-5025 (TTY)  
[www.dhs.state.or.us/vr](http://www.dhs.state.or.us/vr)

The Oregon Office of Vocational Rehabilitation Services (ORVS) is a program within the Department of Human Services. Its mission is to assist Oregonians with disabilities to achieve and maintain employment and independence. ORVS assists employers in recruiting, hiring, and retaining workers who have disabilities. See the section on “Vocational Rehabilitation” in the *FlexAbility Toolkit* for a list of local VR offices.

### **Oregon Commission for the Blind (OCB)**

503-731-3221  
[www.cfb.state.or.us](http://www.cfb.state.or.us)

OCB can assist with recruiting, hiring, or retaining employees who have a vision impairment. OCB will visit a work site and provide training to the managers and staff who work with an individual who is visually impaired.

## **General information resources**

### **Disability Business Technical Assistance Centers (DBTACs)**

(800) 949-4232 (voice and TTY)  
[www.adata.org](http://www.adata.org)

Federally funded network of 10 centers that provide training, technical assistance, and information dissemination on the ADA. The Region X DBTAC (Northwest ADA & IT Center) is located at Oregon Health Science University and serves Alaska, Idaho, Washington, and Oregon.

### **Diversity World**

[www.diversityworld.com](http://www.diversityworld.com)

Provides Internet links to workforce diversity sites.

### **IBM Accessibility Center**

[www.ibm.com/able](http://www.ibm.com/able)

News and information on accessibility, products, and other topics.

## **National Organization on Disability**

(202) 293-5960

[www.nod.org](http://www.nod.org)

The National Organization on Disability (N.O.D.) represents the interests of the 54 million Americans who are people with disabilities. N.O.D. works with business leaders, corporations, associations, and schools to improve work opportunities for Americans with disabilities. Recognizing that it makes good business sense to include people with disabilities, N.O.D. also helps employers explore disability as a workplace diversity issue and disability-related marketing. Through the CEO Council, CEOs and corporations commit to increasing the employment of people with disabilities several times a year via full-page *BusinessWeek* ads.

## **Northwest ADA & IT Center**

(800) 949-4232 (voice and TTY)

[www.nwada.org](http://www.nwada.org)

The Northwest Americans with Disabilities Act and Information Technology Center (Northwest ADA & IT Center) provides technical assistance, training, and dissemination of information regarding the Americans with Disabilities Act and accessible information technology.

## **Office of Disability Employment Policy (ODEP)**

202-693-7880 (voice) 202-693-7881 (TTY)

[www.dol.gov/odep](http://www.dol.gov/odep)

ODEP is an agency within the U.S. Department of Labor that provides national leadership to increase employment opportunities for adults and youths with disabilities while striving to eliminate barriers to employment. ODEP provides policy analysis, technical assistance, development of innovative practices and strategies, and education and outreach to employers, employees, and the disability community. Related to these efforts, ODEP also conducts a variety of employment-related programs and initiatives. A list of ODEP fact sheets regarding employment of people with disabilities can be found at [www.dol.gov/odep/pubs/publicat.htm](http://www.dol.gov/odep/pubs/publicat.htm).

## **Oregon Business Leadership Network (OBLN)**

(503) 281-1424

[www.obln.org](http://www.obln.org)

The OBLN is a statewide consortium of employers committed to creating disability-friendly workspaces and customer places. Members regularly meet to share information and network with other businesses around hiring, retaining, recruiting, and promoting return to work for employees with disabilities. OBLN also links its employer affiliates with expertise through strategic partnerships with Vocational Rehabilitation, independent living centers, Commission for the Blind, Oregon Disabilities Commission, Workforce Oregon, and others. See the OBLN web site for related information and links to Oregon resources. Contact the U.S. Business Leadership Network at [www.usbln.com](http://www.usbln.com) to find BLNs in other states.

### **Oregon Community Resource Directory**

[www.workforcepartnershipsinoregon.org](http://www.workforcepartnershipsinoregon.org)

Databank of Oregon human service agencies and organizations organized by county.

### **Oregon Disabilities Commission (OCD)**

1-800-358-3117 (voice and TTY, in-state only), (503) 378-3142 (voice/TTY, Salem)

[www.odc.state.or.us](http://www.odc.state.or.us)

The OCD provides information, referrals, and programs for Oregonians with disabilities and employers interested in disability issues. Services include technical assistance, ADA information, referral services for people who are deaf or hard of hearing, and the Client Assistance Program, which works with employees and employers to attain success for people with disabilities in the workplace.

### **Society of Human Resource Management (SHRM)**

[www.shrm.org/diversity](http://www.shrm.org/diversity)

The SHRM web site provides information about the components of diversity initiatives.

### **U.S. Department of Labor (DOL)**

866-4-USA-DOL (866-487-2365)

[www.dol.gov](http://www.dol.gov)

The DOL provides a wide range of information and services to employers. The ODL Office of Disability Employment (see ODEP) provides information specific to employing people with disabilities.

## **U.S. Government Online Guide**

[www.Disabilityinfo.gov](http://www.Disabilityinfo.gov)

The central gateway to the federal government's disability-related information and resources, providing a directory of government links relevant to people with disabilities, their families, employers, service providers, and other community members.

## **Legal resources**

### **DBTAC Northwest ADA Information Center**

(800) 949-4232

[www.dbtacnorthwest.org](http://www.dbtacnorthwest.org)

The Disability Business Technical Assistance Center Northwest, ADA Information Center (DBTAC NW ADA Information Center) provides expert technical assistance, training, and dissemination of information regarding the Americans with Disabilities Act. The DBTAC Northwest ADA Information Center is the federally designated Disability Business Technical Assistance Center (DBTAC) serving Oregon, Washington, Idaho, and Alaska. Find other regional DBTACs at [www.adata.org](http://www.adata.org) or by calling 1-800-949-4232 (voice/TTY).

### **Oregon Bureau of Labor and Industries (BOLI)**

Locations throughout Oregon, please see local listings.

(503) 731-4861

[www.boli.state.or.us](http://www.boli.state.or.us)

BOLI enforces state laws that prohibit discrimination in employment, housing, and public accommodations; protect workers and children in the workplace; guarantee most Oregon workers job-protected leave when their children are born or a family member is seriously ill; and govern registered apprenticeship programs.

### **U.S. Department of Justice (DOJ)**

800-514-0301 (voice); 800-514-0383 (TTY) [www.ada.gov](http://www.ada.gov)

The ADA home page on the DOL web site details the history and current status of the ADA. Employers can call the toll-free ADA information line to obtain answers to general and technical questions about the ADA and to order technical assistance materials.

### **U.S. Department of Labor (DOL)**

[www.dol.gov/dol/audience/aud-employers.htm](http://www.dol.gov/dol/audience/aud-employers.htm)

U.S. DOL employer's home page.

### **U.S. Equal Employment Opportunity Commission (EEOC)**

800-669-4000 (voice), 800-669-6820 (TTY)

[www.eeoc.gov/employers/smallbusinesses.html](http://www.eeoc.gov/employers/smallbusinesses.html)

The EEOC coordinates all federal equal employment opportunity regulations, practices, and policies. The EEOC small business web site provides answers to common questions that employers encounter regarding compliance with anti-discrimination laws and dealings with the EEOC.

### **U.S. EEOC Online ADA Handbook**

[www.eeoc.gov/ada/adahandbook.html](http://www.eeoc.gov/ada/adahandbook.html)

*The Americans with Disabilities Act: A Primer for Small Business* is available for viewing at this web site.

## **Accessibility & workplace accommodation resources**

### **Access Technologies, Inc.**

800-677-7515 (toll free Oregon only),

503-361-201 (voice), 503-361-1201 (TTY)

[www.taln.org](http://www.taln.org)

Access Technologies, Inc. (ATI) is a nonprofit organization specializing in ergonomic assessments, assistive technology, and technology training services. ATI provides evaluations of need in the workplace and helps create solutions using assistive technologies. ATI has an equipment lending library so an accommodation can be tested to assure it is correct before purchase.

### **Job Accommodation Network (JAN)**

(800) 526-7234 (voice and TTY)

[www.jan.wvu.edu](http://www.jan.wvu.edu)

JAN is a toll-free comprehensive information and referral service on job accommodation products and techniques. At the JAN web site, there are multiple accommodation ideas for 40 specific disabilities. JAN provides advice by phone about individualized work site accommodations.

### **National Service Resource Center**

[http://nationalserviceresources.org/resources/online\\_pubs/disability\\_issues/](http://nationalserviceresources.org/resources/online_pubs/disability_issues/)

National Service Resource Center on-line guide to creating an inclusive environment for national and community service programs.

### **NexTalk**

[www.nextalk.net](http://www.nextalk.net)

NexTalk provides free, Internet-based, live text communication. Members can call or accept text calls from any other NexTalk user and can call or accept calls from a TTY.

### **Northwest ADA & IT Center**

(800) 949-4232

[www.nwada.org](http://www.nwada.org)

The Northwest Americans with Disabilities Act and Information Technology Center provides technical assistance, training, and information regarding the Americans with Disabilities Act and accessible information technology. The ADA & IT Center offers a wide range of training and technical assistance for employers and can assist with accessibility and accommodation information. Find other regional DBTACS at [www.adata.org](http://www.adata.org) or by calling (800) 949-4232 (V/TTY).

### **TTY Relay or Speech to Speech (STS) Relay Services**

Dial 711 (voice or TTY)

TTY relay service can be used to connect a telephone call between someone using a regular voice telephone and someone who has a hearing or speech impairment using a text telephone (TTY) or between two people using a regular voice phone when one or both of them has a speech impairment and is not easily understood by the other caller.

### **Web Accessibility in Mind**

[www.webaim.org/techniques](http://www.webaim.org/techniques)

Techniques and concepts for web site accessibility.

### **Web Accessibility Initiative (WAI)**

[www.w3.org/WAI](http://www.w3.org/WAI)

WAI, in coordination with organizations around the world, pursues accessibility of the web through five primary areas of work: technology, guidelines, tools, education and outreach, and research and development.

### **Workers' Compensation Reemployment Assistance Unit**



800-445-3948

[www.oregonwcd.org](http://www.oregonwcd.org)

The Oregon Department of Consumer & Business Services, Workers' Compensation Division (WCD), Reemployment Assistance Unit provides work site modification assistance for employers to help returning injured workers through the Preferred Worker Program and the Employer-at-Injury Program. Call 800-445-3948 to obtain a free copy of the work site digest, which provides several examples of work site modifications.

## Training resources

### **Northwest ADA & IT Center**

(800) 949-4232 (voice and TTY)

[www.nwada.org](http://www.nwada.org)

The Northwest Americans with Disabilities Act and Information Technology Center (ADA & IT Center) is one of 10 federally funded centers that provide training, technical assistance, and information on the ADA. The ADA & IT Center offers a wide range of training and technical assistance for employers.

### **Oregon Business Leadership Network (OBLN)**

(503) 281-1424

[www.obln.org](http://www.obln.org)

Attend OBLN quarterly meetings for training and networking or link with local partner trainings at the OBLN web site.

## On-line training resources

### **ADA Basic Building Blocks: An online course about the ADA**

[www.adabasics.org](http://www.adabasics.org)

The Disability & Business Technical Assistance Centers (DBTAC) offer free the "ADA Basic Building Blocks: An Online Course about the ADA." This introductory web course on the Americans with Disabilities Act (ADA) explores the legal requirements and spirit of the ADA. The self-paced course is organized into 12 topics.

## **American Sign Language Lessons**

[www.lifeprint.com/asl101/index.htm](http://www.lifeprint.com/asl101/index.htm)

The ASL University offers a series of self-paced online American Sign Language (ASL) lessons on the Internet. Lessons cover aspects of deaf culture, ASL grammar, and vocabulary.

## **Disability Customer Service Training**

[www.wiawebcourse.org](http://www.wiawebcourse.org)

This on-line, self-paced course was developed for the staff of One Stop Centers, but can be adapted for customer service training in other sectors. Registration is free, and the course can be taken, complete or in part, at any time.

## **JAN Online Seminar: Accommodation Process**

[www.ttap.org/training/onlineseminars/jan/janslidemenu.html](http://www.ttap.org/training/onlineseminars/jan/janslidemenu.html)

This audio presentation outlines the Job Accommodation Network's approach to providing reasonable accommodations for applicants or employees with disabilities.

## **Disabilities resources**

### **American Association of People with Disabilities (AAPD)**

[www.aadp-dc.org](http://www.aadp-dc.org)

AAPD is a nonprofit cross-disability member organization that sponsors the National Disability Mentoring Day.

[www.dmd-aapd.org](http://www.dmd-aapd.org)

The AAPD web site dedicated to the National Disability Mentoring Day provides information about developing job-shadowing programs and finding local mentoring resources.

### **Epilepsy Foundation of Oregon**

888-828-76651

[www.EpilepsyOregon.org](http://www.EpilepsyOregon.org)

The Epilepsy Foundation provides training and consultation to employers in Oregon and Southwest Washington including Seizure First Aid information; workplace considerations; common low-cost, reasonable accommodations; and answers to employer questions.

### **Oregon Community Resource Directory**

[www.workforcepartnersinoregon.org](http://www.workforcepartnersinoregon.org)

The databank of Oregon human service agencies and organizations organized by county.

### **Oregon Disabilities Commission (ODC)**

1-800-358-3117 (voice and TTY, in-state only), (503) 378-3142 (voice and TTY, Salem)

[www.odc.state.or.us](http://www.odc.state.or.us)

The Oregon Disability Commission provides information, referrals, and programs for Oregonians with disabilities and employers interested in disability issues. ODC provides information and referral about disability service organizations throughout the state.

## **Recruiting & employment resources**

### **Employer Assistance Referral Network (EARN)**

[www.earnworks.com](http://www.earnworks.com)

The Employer Assistance Referral Network (EARN) is a free nationwide referral and technical assistance service for employers. EARN connects employers to employment service providers and disability-staffing agencies that have direct access to job-ready individuals with disabilities. EARN also provides technical assistance to employers in locating appropriate organizations and information as they seek to hire qualified candidates with disabilities.

### **Northwest ADA & IT Center**

(800) 949-4232 (voice and TTY)

[www.nwada.org](http://www.nwada.org)

The Northwest Americans with Disabilities Act and Information Technology Center can provide information and technical assistance in developing appropriate hiring practices and policies that comply with disability and employment laws. Find other regional DBTACS at [www.adata.org](http://www.adata.org) or by calling (800) 949-4232 (voice and TTY).

## **Office of Vocational Rehabilitation Services (OVR)**

Administration: 877-277-0513 (Toll Free),  
(503) 945-5880 (Voice), (503) 947-5025 (TTY)

[www.dhs.state.or.us/vr](http://www.dhs.state.or.us/vr)

The Oregon Office of Vocational Rehabilitation Services (ORVS or VR) is a program within the Department of Human Services. Its mission is to assist Oregonians with disabilities to achieve and maintain employment and independence. ORVS assists employers in recruiting, hiring, and retaining workers with disabilities. See the “Vocational Rehabilitation” section of the *FlexAbility Toolkit* for a list of local VR offices.

## **One Stops (see Worksource Oregon)**

### **Oregon Business Leadership Network (OBLN)**

(503) 281-1424

[www.obln.org](http://www.obln.org)

OBLN may provide direct services or links to services for posting positions and reviewing resumes to help match employers with potential employees with disabilities.

### **Oregon Commission for the Blind (OCB)**

503-731-3221

[www.cfb.state.or.us](http://www.cfb.state.or.us)

OCB can assist with recruiting, hiring, or retaining employees who have a vision impairment. OCB will also visit a work site and provide training to the managers and staff who work with an individual who is visually impaired.

### **RecruitABILITY**

[www.recruitability.org](http://www.recruitability.org)

A national service of disabledperson.com providing an online, targeted recruiting site that connects employers with job seekers with disabilities. The site includes free resume searches and postings, and all job seekers are people with disabilities.

### **Work Support. Com**

[www.worksupport.com](http://www.worksupport.com)

Provides information, resources, and research about work and disability issues.

## **Worksource Oregon and One Stop Centers**

[www.WorksourceOregon.org](http://www.WorksourceOregon.org)

Worksource Oregon provides several employer services through local One Stop Centers and may provide assistance with hiring individuals with disabilities. One Stop Career Centers are located throughout Oregon and in communities nationwide. One Stops consist of several agencies working together to offer an assortment of career development and job search services as well as job postings that can be used by anyone, including people with disabilities. Several Oregon One Stops have a disability navigator to help guide applicants toward disability-friendly businesses.



**Oregon Business Leadership Network** [www.obln.org](http://www.obln.org)

*Oregon's Business Forum on disability & inclusion*

***Who are we?***

The OBLN is made up of Oregon businesses, both large and small. These leading-edge companies are committed to taking advantage of the skills and talents of workers with disabilities and to attracting the buying power of customers with disabilities. (See "Who" at <http://www.obln.org/affiliate.htm>.) Founded in 2004 by its business led Board the OBLN exists to provide a business to business forum on improving inclusion of people in the workplace and marketplace. We set leadership goals and offer resources in the form of training, networking, a nationally recognized e-clearinghouse, career fairs and live resume recruiting events, Internship Center and monthly e-magazine. I hope you like what you see in this manual and will want to join us.

Jilma Meneses, President, OBLN  
Director of Risk Management, Oregon Health and Science University

***OUR MISSION***

The OBLN, an employer-led organization, seeks to improve employment prospects and consumer choices for people with disabilities by raising employer awareness around the positive benefits to business and society of actively including people with disabilities in the workforce and as consumers.

***OUR VISION***

We are a statewide business-led organization whose active business leadership propels our success. We aim to make the employment of people with disabilities a feasible priority for businesses in Oregon. Our strong partnerships, excellent events and programs, information sharing, and stable funding ensure the achievement of our goals.

***OBLN GOALS AND STRATEGIES***

***INCLUSION:***

Oregon employers become national leaders and experts in inclusive practices for people with disabilities in the workplace and marketplace.

***EDUCATION:***

The economy and workforce of Oregon benefits from inclusive business practices, tools, resources, and employer and worker acumen regarding disabilities.

***EMPLOYMENT:***

Oregon businesses, large and small, in every sector regularly recruit, hire, and retain people with disabilities as part of a skilled, committed workforce, contributing to healthy bottom lines and thriving businesses.

### **CAPACITY:**

The OBLN effectively fulfills its mission by building a strong, involved board of directors; by developing a staffing structure to support the OBLN efforts; by developing diverse, reliable funding to support the needs of the organization; by raising visibility of the OBLN statewide; and by strengthening organizational systems to support the efforts of the OBLN.

### **Who we are**

The OBLN provides the leading employers' voice on disability in Oregon. We are a 501(c)(3) non-profit organization, sponsored and led by a growing number of private and public sector employers that employ 15 percent of Oregon's workforce. We make it easier for our members to recruit and retain employees with disabilities, serve customers with disabilities, and work in partnership with employees and business associates with disabilities.

The OBLN promotes accommodation as a competitive business strategy and assures that members have access to the latest and best resources on ADA compliance. We provide links between private and public sector expertise and offer information about successful practices regarding all aspects of disabilities as they affect businesses. Our work is based on an analysis by Oregon's leading employers of leading trends around disability and the return on investment for including people with disabilities as workers and customers (the *Oregon Business Case for Inclusion*).

The OBLN was recognized nationally as the **2005 USBLN Chapter of the Year** for its leadership in enhancing the mutual benefits afforded businesses and people with disabilities by adapting business practices to accommodate workers with disabilities. The model of inclusiveness that the OBLN presents and champions is becoming the standard for best business practices in Oregon. It is a recognized partner in the *Oregon Business Plan* on workforce stability strategies.

### **OBLN BELIEFS:**

- 1) **Oregon business needs the workplace skills** and experience, and consumerism of people with disabilities.
- 2) **Inclusion of people with disabilities is good for business** and the bottom line.
- 3) **People with disabilities are an important part** of leadership and the workforce.
- 4) **Accommodation is a key business strategy** for competitiveness.
- 5) **Building a culture of inclusion is a business leadership strategy.**
- 6) **Businesses learn best practices** and leadership models from each other for improving inclusion of people with disabilities in the workplace and marketplace.

## OBLN VALUES:

- 1) **Business perspective and leadership**
- 2) **Serving and assisting business**
- 3) **Diversity & Inclusion**
- 4) **Awareness**
- 5) **Commitment**
- 6) **Confidence**

### Services for members

OBLN provides access to best practice guidance and management solutions through:

- **Leadership forums and training:** Best business practices for employers in a range of industries.
- **Employment events:** Linking employers to the talents of adults and students with disabilities through a growing number of events including our Annual Tapping Fresh Talent Career Fair and Internship and Summer Hire Center.
- **The OBLN's monthly E-Zine:** News and resources in electronic format showcasing best practices from around the state delivered to your desktop.
- **Website clearinghouse at [www.obln.org](http://www.obln.org):** Nationally recognized clearinghouse of resources and materials to help employers stay current, make presentations, train, and lead the way for inclusiveness in the workplace.
- **OBLN webinars:** A growing number of trainings on diversity/disability topics ranging from disability etiquette and accommodation to newest studies.

### **Specific OBLN tools include:**

- **The *FlexAbility Toolkit*:** On-line or hard copy of the OBLN employer overview manual for disability, which includes chapters on accommodation tools, best practices, strategies, best resources, and more. <http://www.obln.org/flex.htm>
- **Employer Breakfast Briefings and Chapter Networks:** Up-to-the-minute information on disability as it affects business, disability case law, and sources of support. <http://www.obln.org/Calendar/08/08.htm>
- **The Oregon Business Case for Inclusion:** A brief analysis by Oregon's leading employers of leading trends around disability and the return on investment for including people with disabilities as workers and customers. <http://www.obln.org/BUScase.htm>
- **The Internship Center:** The OBLN and Incight along with business and service partners are linking business with tailored fits with the talents of students with disabilities from high schools (Summer work), community colleges, and colleges (Internships). See it at <http://www.obln.org/intern.htm>
- **Look at My Ability:** A video on the desire of Oregonians with disabilities to bring their talents to market. See it at <http://www.obln.org/LAMA.htm>



- **OBLN Annual Tapping Fresh Talent Career Fair:** An opportunity to link businesses with the emerging talents of students with disabilities and adult job seekers with disabilities and experience.

**In 2008, the OBLN plans to enhance its offerings by:**

- Leading the Oregon Business Plan Targeted Workforce Needs Initiative around disability; offering business forums on aspects of recruitment, hiring, and retention.
- Expanding and evaluating business participation in the Internship Center.
- Increasing the number of OBLN chapters by growing its new Salem chapter and exploring new locations for chapter development.
- Increasing the OBLN's funding base with a combination of corporate sponsors, contracts with businesses, grants, and member services.
- Providing leadership for Project Search replication among Oregon businesses linking business with the talents of people with significant disabilities in mainstream workteams.
- Initiating mentoring opportunities between businesses and students with disabilities.
- Adding on-line training modules to [www.obln.org](http://www.obln.org) and the OBLN *FlexAbility Toolkit*.
- Developing partnerships with Oregon professional associations for joint training and networking.

**HOW TO JOIN THE OBLN**

Basic membership in the OBLN is free. Signing up is quick and easy at [www.obln.org](http://www.obln.org) in the left navigation bar click Join Now.