ADA Audio Conference Series
June 28, 2016

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Customize Your View

- Resize the Whiteboard where the Presentation slides are shown to make it smaller or larger by choosing from the drop down menu located above and to the left of the whiteboard. The default is “fit page”
Customize Your View *continued*

- Resize/Reposition the Chat, Participant and Audio & Video panels by “detaching” and using your mouse to reposition or “stretch/shrink”. Each panel may be detached using the ☐ icon in the upper right corner of each panel.

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2. **By Email** webinars@ada-audio.org; or

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Rights of Veterans with Disabilities in Employment, Housing, and Transportation

Presenters: Sharon Alexander, Susan Prokop, and Heather Ansley
What is the ADA?

- The ADA is a federal law that prohibits discrimination and guarantees people with disabilities the same opportunities as everyone else.

- The Equal Employment Opportunity Commission (EEOC) enforces the employment provisions of the ADA.
What is a disability for the ADA?

- an impairment that “substantially limits a major life activity,” including a major bodily function
- the impairment can be physiological, anatomical, mental or psychological, or cosmetic disfigurement

Examples of combat injuries that are almost always disabilities:

- blindness, deafness
- partial and complete amputations,
- mobility impairments requiring the use of a wheelchair
- post-traumatic stress disorder
- major depressive disorder
- obsessive compulsive disorder
- epilepsy (seizures)
ADA Coverage

Even if a veteran does not think of herself as “disabled,” the ADA provides coverage for anyone who:

- Has a **physical or mental impairment** that substantially limits one or more of your major life activities
- Has a **record** of such an impairment; or
- Is **regarded**, or treated by an employer, as having an impairment

AND

- Is **qualified** for the he/she wants or holds.

“Disability” – Many Definitions

Important note – the ADA’s definition of disability is completely separate from the VA and DOD definitions. A veteran’s VA rating (or lack of a rating) has nothing to do with whether he or she is covered under the ADA.
How does the ADA apply to employment?

- prohibits disability discrimination
- limits medical examination and inquiries
- requires reasonable accommodations for people with disabilities.

Discrimination Prohibited

- The ADA **prohibits discrimination** *(including harassment)* in ALL aspects of employment – for example, hiring, pay, performance reviews, promotions

- The ADA **prohibits retaliation** against an employee for exercising rights under the ADA.

- The ADA prohibits discrimination based on “association” with someone with a disability – like a spouse
The ADA also **limits the medical information** an employer can obtain from applicants and employees.

**Limits on Medical Exams and Questions**

- **Pre-Offer:** No questions or exams allowed
- **Post Offer (Conditional Offer, Pending a Medical Exam):** exams and inquiries allowed if required of all applicants for that kind of job; denial of job based on medical exam must be job-related and consistent with business necessity
- **During Employment:** No questions or exams allowed EXCEPT when job-related and consistent with business necessity
Confidentiality of Medical Information

The law requires that employers keep all medical records and information confidential and in separate medical files.

Reasonable Accommodation

The ADA requires employers to make adjustments, or reasonable accommodations, to allow persons with disabilities to perform a job, unless doing so would cause the employer significant difficulty or expense.
Reasonable Accommodation

A reasonable accommodation is any change in the work environment (or in the way things are usually done) that helps a person with a disability apply for a job, perform the duties of a job, or enjoy the benefits of employment.

What kinds of accommodations can help a veteran work?

- written materials in accessible formats, such as large print, Braille, or on computer disk
- extra time to complete a test if you have difficulty concentrating or have a learning disability or traumatic brain injury (TBI)
- interviews, tests, and training held in accessible locations
What kinds of accommodations can help a veteran work?

- assistive technology that would allow you to use a computer if you are blind or to use a telephone if you are deaf or hearing impaired;
- a glare guard for a computer monitor if you have a TBI;
- modified keyboard for people with hand injuries or amputations

How to ask for a reasonable accommodation

- You just have to say that you need an adjustment or change in the application process or at work for a reason related to a medical condition. You do not have to mention the ADA or use the term “reasonable accommodation.” “No magic words.”
- You can ask in writing or in person.
- The request can be made by a family member, rehab counselor, health professional, or other person assisting you.
When to ask for a reasonable accommodation

- A person with a disability can request an accommodation at any time during the application process or during employment.
- No duty to disclose before or at the start of employment.
- Important to request accommodation BEFORE performance issues develop.

USERRA

- Uniformed Services Employment and Reemployment Rights Act
- USERRA has requirements for reemploying veterans with and without service-connected disabilities and is enforced by the U.S. Department of Labor (DOL) and the U.S. Department of Justice (DOJ).
- Stronger accommodation provisions include obligation to retrain a returning employee if needed due to a disability.
Hiring Preferences for Veterans

- Some employers voluntarily preference veterans with disabilities.

- **Veterans preference laws** require preference for **veterans with and without disabilities** seeking employment with the **federal government**.

- **Federal contractors** may also be subject to affirmative action requirements for veterans with disabilities.

Resources


Resources

- The Family and Medical Leave Act, the Americans with Disabilities Act, and Title VII of the Civil Rights Act of 1964: http://www.eeoc.gov/policy/docs/fmlaada.html


Resources

- The Mental Health Provider’s Role in a Client’s Request for a Reasonable Accommodation at Work: http://www.eeoc.gov/eeoc/publications/ada_mental_health_provider.cfm

- Job Accommodation Network – excellent resources on accommodating PTSD and other conditions: www.askjan.org
To learn more about the employment provisions of the Americans With Disabilities Act, visit www.eeoc.gov.
### Veterans with Disabilities

- 5 ½ million veterans with disabilities
- 3 million with service-connected disabilities
- 600,000 with significant service-related disabilities

### Veterans with Disabilities

- 42,000 - spinal cord injury
- 16,000 - multiple sclerosis
- 156,000 legally blind veterans - 1.1 million with visual impairments.
- 1,572 with major limb amputations - 486 with multiple amputations.
- 2,500 - traumatic burns.
- 5,000 severe blast eye injuries
- 336,000 - hearing loss
- 253,330 - traumatic brain injury - 3,949 with penetrating head wounds - 44,610 with severe or moderate brain injury.
- [Army] - 73,674 soldiers with combat-related PTSD.
FHA Application to Veterans with Disabilities

- Fair Housing Accessibility Guidelines
- Reasonable Modifications

Service animal policies apply to:

- Guide Dogs
- Hearing Assistance Dogs
- Emotional support animals
FHA Application to Veterans with Disabilities

- Prohibitions in the sale and rental of housing
  - Refusals to rent or sell housing
  - Refusals to negotiate for housing
  - Making housing unavailable
  - Setting different terms, conditions or privileges for sale or rental of a dwelling
  - Providing different housing services or facilities
  - Falsely denying that housing is available for inspection, sale, or rental
  - Denying access to or membership in a facility or service related to the sale or rental of housing.

Housing Problems Veterans with Disabilities Encounter

- Rural areas – noncompliant multifamily housing developments
- Affordable, accessible housing
- GAO Report – 2.3 million low income veteran renter households
- 14 PHAs offered veterans preference
Dept. of Justice Protects Veterans with Disabilities

- 2004 –Buffalo NY -- lawsuit filed by Eastern PVA against a builder and architect of carriage house units that failed to comply with the Fair Housing Act.

- 2012 - consent decree - Park City Utah condominium -- Gulf War veteran with emotional support dog denied waiver of pet fees and insurance requirements. Fines led to non-renewal of lease. HUD Assistant Secretary John Trasvina said “No veteran should be denied the right to have a support animal when they return home with mobility impairments or other conditions.”

Housing Modification Resources for Veterans with Disabilities

- Specially Adapted Housing Program
  - Grants to modify home owned by veteran
    - Eligibility depends on nature of Vet’s disability
  - Temporary Residence Adaptation grants
  - Three time use maximum; Maximum amounts

- 1000 grants annually

- $650 million grants given to more than 34000 veterans with significant disabilities since 1948
Specially Adapted Housing Grant

- Eligibility – veterans with certain total and permanent service-connected disabilities that impair mobility
- Goal - provide a barrier-free living environment - generally used to create a wheelchair accessible home.
- Used to:
  - Construct a specially adapted home
  - Remodel an existing home
  - Reduce unpaid principal mortgage balance of an adapted home already acquired
- Maximum amount in 2016 is $73,768.

Special Housing Adaptation Grant

- Assist veterans with service-connected mobility issues due to blindness or loss or loss of use of both hands or severe burns.
- Use SHA grants to:
  - Adapt veteran’s or family member existing home
  - Adapt home being purchased
  - Help veteran/family purchase home already adapted
- The maximum amount allowable for SHA grants is currently $14,754.
Temporary Residence Adaptation [TRA] Grant

- For veterans or seriously injured active duty service members temporarily residing in home owned by family member.
- Up to $32,384 for SAH eligible
- Up to $5,782 for SHA eligible
- Counts against the 3 times use
- 8/6/13 –TRA grants don’t count against allowable grant total.

Home Improvements and Structural Alterations Grant

- Service-connected or non-service-connected veterans
- HISA grant can be used with SAH or SHA grant
- $6,800 for S/C veteran; $2,000 for non-S/C veteran
- Necessary for the continuation of treatment or for access to home & essential lavatory and sanitary facilities.
- Medical determination needed from doctor.
- Uses of grant – build accessible entrance, improve bathroom or kitchen access, install handrails, lower electrical outlets and switches, improve paths or driveways, improve plumbing/electrical work for dialysis patients
Adaptive Housing Grant Info


Other Housing Resources

- Homes For Our Troops -- no cost to veterans with disabilities. Completed or in process completing @ 170 homes across the country. Covers costs of construction above the $64,000 grant. WWW.Homesforourtroops.org
- Rebuilding Together – www.rebuildingtogether.org
- “Accessible Home Design” Book developed by PVA’s Architecture Department
Thank You!

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Veterans with Disabilities
ACCESS TO TRAVEL
Overview of Travel

- Americans with Disabilities Act
  - Buses
  - Trains
  - Subways
  - Ferries
- Air Carrier Access Act
  - Airplanes

Americans with Disabilities Act (ADA) and Public Transportation

- Prohibits discrimination against individuals with disabilities in public transportation services.
- Requires:
  - Transit facilities and vehicles or rail cars to be accessible.
  - Personnel to be aware of accessibility features, such as lifts on buses, and trained on how to use them.
  - Announcements and other service-related information to be available in accessible formats.
  - Service animals to be permitted access.
Accessing Public Buses as a Wheelchair User

- Buses operated by public transit entities must be accessible to passengers who use wheelchairs.
  - Ramps or lifts.
  - Securement devices for wheelchairs.
- Personnel must be trained in using access features, which must be kept in working order.
- Reasonable modifications to service, if requested.

Accessing Transit as a Service Animal User

- The Department of Transportation’s (DOT) regulations allow access for service animals that are individually trained to work or perform tasks for an individual with a disability.
- Unlike the Department of Justice’s regulations, DOT allows access for other species of service animals beyond dogs.
- Emotional support animals have no access rights.
Paratransit Services

- Public transit agencies that provide fixed-route services must provide paratransit services for passengers with disabilities.
- These services must meet certain requirements related to areas of service and provision of service.
- Paratransit trips may not be limited by trip purpose or frequency.

Resolving Transit Complaints

- Public transit agencies must have complaint processes that allow them to promptly resolve disability-related complaints. These processes must be advertised and accessible to passengers with disabilities.
- Passengers with disabilities may also file ADA-related complaints with the Department of Transportation’s Federal Transit Administration, which is responsible for reviewing these complaints.
ADA and Private Transportation Providers

- Providers such as over-the-road bus and airport shuttle companies must provide accessible service to passengers with disabilities.
- This may include accessible vehicles or the provision of equivalent service.
- Airlines are not covered by the ADA.
- Disability-related complaints should be filed with the Department of Justice.

Air Carrier Access Act (ACAA)

- Introduced in response to a United States Supreme Court decision holding that Section 504 of the Rehabilitation Act of 1973 did not apply to air carriers.
- Signed into law on October 2, 1986 (PL 99-435).
- Prohibited disability-based discrimination in domestic air travel.
- Amended to include foreign air carriers in April 2000.
AACA Protections

- Guide assistance in the airport and in the aircraft.
- Seating accommodations.
- Service animals and emotional support animals allowed.
- Stowage of assistive devices.

Guide Assistance

- Air carriers must provide assistance, if requested, to the terminal.
- Air carriers must provide assistance, if requested in boarding and deplaning the aircraft. Such assistance includes the opportunity to preboard.
Seating Accommodations

- Airlines must provide passengers with a seat that meets their disability-related needs within the class of service of the ticket purchased.
- Any additional fees for accommodations such as aisle seats must be waived.
- Passengers with disabilities who use service animals or have fused or fixed legs must have priority access to a bulkhead seat, if requested.

Service Animals

- Species other than dogs allowed.
- Documentation may be required for psychiatric service animals and emotional support animals. Generally not required for other types of service animals.
- Must be trained to behave in a public setting, including bowel and bladder control.
- Must be trained or able to provide assistance to a passenger with a disability. Or, in the case of an emotional support animal, be necessary for the passenger’s well-being.
Stowage of Assistive Devices

- An air carrier must allow manual wheelchairs, canes, crutches, walkers, and other similar devices on board the aircraft.
- Assistive devices are exempt from carry-on baggage limits.
- Wheelchairs may be stowed in an on-cabin stowage area, if available, or strapped to a seat.
- Lost, damaged, or destroyed assistive devices are exempt from standard damage limits.

Problems Encountered in Air Travel

- Broken assistive devices.
- Inability to obtain needed seating accommodations.
- Delays in receiving requested assistance.
- Lack of accessible lavatories.
- Airline and contractor training deficiencies.
- Inaccessible in-flight entertainment and communications.
AACA Remedies

- Passengers with disability-related complaints may work directly with the air carrier.
- Disability-related complaints may also be filed with the Department of Transportation (DOT).
  - Referred to the air carrier for response.
  - Responses are reviewed and additional action is taken as needed.
  - DOT can levy civil penalties and most often does so in situations involving a pattern of problems.

No Private Right of Action

- No express right to sue to remedy incidents of discrimination in air travel.
- Many courts originally implied a private right of action.
- Following a United States Supreme Court decision in a non-ACAA case, many courts have subsequently been reluctant to infer a private right of action.
Pending Changes to the ACAA

- The Department of Transportation initiated a negotiated rulemaking (Reg Neg) in 2016.
- Advisory Committee on Accessible Air Transportation (ACCESS Advisory Committee) appointed to engage in the Reg Neg.
- Issues under review:
  - Definition of service animal.
  - Access to lavatories on single-aisle aircraft.
  - Access to in-flight entertainment and communications.

Contact Information

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QUESTIONS?

Thank you for participating in today’s ADA-Audio Conference Session

The next scheduled session is:
“ADA Anniversary Update: Celebrating 26 Years”
July 19, 2016

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