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International Association of Machinists Center for Administering Rehabilitation and Employment Services

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IAM CARES

October 19, 1992

Mr. Lex Frieden
Independent Living Research
Utilization
The Institute for Rehabilitation
and Research (TIRR)
2323 South Shepherd Boulevard
Suite 1000
Houston, TX 77019

Dear Mr. ^{Lex}Frieden:

I have enclosed camera ready copies of the first four ADA guides for employers. Please feel free to duplicate and distribute. I am looking forward to seeing you again at the upcoming ADA contractors meeting in Washington, DC.

With best wishes, I remain,

Sincerely,

A handwritten signature in cursive script that reads "Angela Traiforos".

Angela Traiforos
Executive Director

AT/ddw

Enclosures

**COMPLYING WITH THE
AMERICANS WITH DISABILITIES ACT**

A Guide for Interviewing



**International Association of
Machinists and Aerospace Workers**

**Center for Administering Rehabilitation
and Employment Services**

9000 Machinists Place
Upper Marlboro, Maryland 20772-2687

U.S. Department of Education Grant #H133D10123
For ADA information call: 1-800-949-4232

IAM CARES is authorized and funded by the U.S. Department of Education, Office of Special Education and Rehabilitation Services, National Institute on Disability and Rehabilitation Research (NIDRR), grant #H133D10123, to provide information, materials, and technical assistance to individuals and entities that are covered by the Americans with Disabilities Act (ADA). However, you should be aware that NIDRR is not responsible for enforcement of the ADA. The information, materials, and/or technical assistance are intended solely as informal guidance, and are neither a determination of your legal rights or responsibilities under the Act, nor binding on any agency with enforcement responsibility under the ADA.

Background

Title I of the Americans with Disabilities Act, the ADA, takes effect for employers with 25 or more employees on July 26, 1992, and for employers with 15 or more employees on July 26, 1994. Title I prohibits discrimination against individuals because of disability in any employment context — job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment. This ADA prohibition against discrimination is broad.

Two definitions in the ADA help set the context for understanding employer obligations to individuals with disabilities. "An individual with a disability" is an individual who, has a physical or mental impairment that substantially limits a major life activity, a record of such an impairment, or is regarded as having such an impairment. "A qualified individual with a disability" is one who, with or without reasonable accommodation, can perform the essential functions of the position the individual holds or desires.

Purpose and Organization of this Guide

This guide will be helpful to first line supervisors or hiring officials who have limited or no knowledge of the employment title of the ADA. This guide offers employers practical information about how to conduct interviews in a manner consistent with the ADA requirements. The guide is organized into three sections:

1. basic tips on interviewing;
2. guidelines on interview questions; and,
3. a checklist to help the employer review his or her current interviewing process in terms of ADA demands.

Basic Tips on Interviewing

When an individual with a disability is involved, *all* situations tied to employment are affected by the ADA prohibition against discrimination because of a disability, including a job interview, an interview for promotion, or an interview for some other employment-related reason. This prohibition influences the questions that an employer can ask in an interview. It also requires that the employer provide the interviewee with accessibility in arranging or conducting an interview.

One procedural point is noted here. Employers must post notices containing the provisions of the ADA in conspicuous places. The employer has the responsibility to notify applicants about the employer's obligation to provide reasonable accommodation. Three places that an employer may elect to provide such notice, in addition to posting it, would be on applications, job announcements, or during interviews.

In order for an individual with a disability to be interviewed, the person must be able to get up to and into the building where the interview is to be held and into the room where it is to be conducted. In arranging an interview, an employer should offer to give specific directions and information on accessible entrances, and indicate the availability of additional assistance (e.g., willingness to arrange for an interpreter for an individual who communicates using sign language) to all interviewees. Because recruiters often do interviews in varied locations, these actions will be particularly important for them to remember and use. Such proactive efforts will make a positive impression on all interviewees. Moreover, when an employer or his or her representative makes such an effort, individuals with disabilities may be more likely to indicate, in a timely manner, needs for reasonable accommodation.

In preparing for an interview the employer should:

1. know the essential functions of the job, especially what the person in the job is suppose to accomplish;
2. know job functions that are marginal;

3. have a willingness to consider alternative ways essential functions may be performed or marginal functions can be reassigned;
4. have a list of questions tied to the individual's ability to perform job functions that make *no reference* to disability;
5. be willing to ask how to be of assistance to the interviewee;
6. plan to ask all individuals the same questions; and
7. have a willingness to maintain any information, volunteered by the individual about his or her disability, as a confidential record.

If an employer knows the individual has a disability, he or she should treat the individual like any other interviewee, unless the individual requests or common sense dictates otherwise. This means extending a hand shake or physical contact to an individual with — quadriplegia, short arms, a prothesis, or blindness. This means maintaining eye contact with an individual who is blind or who uses an interpreter, *even when the interpreter is speaking*. This means giving the interviewee your undivided attention, even when he or she cannot see you. This means not being afraid to offer assistance, and if accepted, asking how the employer can help.

An interview with an individual, with or without a disability, is an important component of an employer's decision — to hire, to promote, to discipline, to train, or to offer some other benefit or opportunity. An interview may be the first face-to-face opportunity for an employer to learn about and weigh the individual's ability to do a job or to take advantage of an opportunity. Moreover, in the case of an individual with a disability, it may be the employer's first chance to explore reasonable accommodations the individual may need to complete the application process, participate in testing, or perform essential functions of the job.

Here are some "dos" and "don'ts."

During the interview an employer:

1. should use preferred phrasing — "disability instead of handicap," "uses a wheelchair" instead of "confined to a wheelchair," "individual with disability" instead of "disabled individual;"
2. should explain completely and accurately the essential functions of the job, if the individual does not have such information;
3. should focus on questions about the ability of the individual to perform the essential functions of the job;
4. should ask about education, work experience, skills, or licenses that are job-related;
5. should be willing to provide reasonable accommodation during the interview if the individual requests it, as well as at other points during an employment relationship; and,
6. may ask all individuals to demonstrate an ability or skill if all individuals being interviewed in connection with the job or opportunity are being asked to demonstrate their ability.

During an interview the employer should not:

1. ask any questions directly or indirectly related to — the existence, the nature, severity, cause, prognosis, need for leave tied to, or past attendance record because of — disability;
2. make assumptions about limitations; and
3. lessen expectations or standards, but be willing to offer reasonable accommodation so they can be met.

These "dos" and "don'ts" highlight the value and importance of giving individuals with disabilities the same opportunities and treatment

that an employer extends to individuals without disabilities. Employers have discretion in one important area, however, and may treat individuals with disabilities differently than other individuals in this circumstance - if an individual has a known disability that appears to interfere or prevent performance of a job-related function, an employer may ask the individual to describe or demonstrate how he or she would do this function, even if other interviewees do not have to do so.

Guidelines on Interview Questioning

In an interview an employer can ask an individual if s/he would be able to perform the essential functions of the job. If the person would not be able to perform these functions as currently performed, then the employer may ask how the person would be able to complete the tasks using different means. Here are some examples of appropriate questions:

1. This job requires lifting and carrying 15 pound boxes, can you do that? If not, how can you move these boxes from point A to point B?
2. This work is seasonal and requires that employees work 15 hours of overtime a month during the fall, can you do that?
3. This job involves working varied shifts, can you do varied shifts?
4. This job involves taking information over the phone and entering it into the computer as you hear it, can you do that? (This question could be discriminatory if the individual had a hearing impairment and could not communicate over phone lines except through a telecommunication device for the deaf.)
5. This job involves packing items moving on a conveyor belt at a constant speed, can you do the packing at the necessary speed?
6. Can you file documents?

Here are some examples of inappropriate questions:

1. Do you have a disability or illness that I should know about? [Questions about illness or disability can be asked after an offer of employment has been made and if all individuals in the same job class are asked as well.]
2. Have you ever filed a workers' compensation claim? [Can be asked after a job offer has been made and if all individuals in the same job class are asked as well.]
3. What diseases have you had? [Questions about illness can be asked after an offer of employment has been made and if all individuals in the same job class are asked as well.]
4. Are you taking any prescribed drugs?
5. Do you have any defects that prevent you from performing certain kinds of work?
6. How many days were you absent from work for illness last year?
7. Have you ever had a mental illness?
8. Do you have any disabilities or impairments which may affect your performance in the position for which you are applying?
9. To do this job you will obviously need accommodations, which ones will you need?

Final Note. During interviews and when doing reference checks an employer should ask job-related questions that will allow a determination of whether the individual can perform the functions of the job, with or without reasonable accommodation. Generally, during discussions about his or her ability to perform job functions, the individual will raise the issue of reasonable accommodation.

Checklist for Interviewing

	Yes	No
1. We have deleted all questions related to disability from applications and in interviews.	_____	_____
2. We have posted notices on the provisions of the ADA.	_____	_____
3. We have notified applicants of our obligation to provide reasonable accommodation on applications, job announcements, and/or during interviews.	_____	_____
4. Interviewers have been briefed on appropriate ways of interacting with applicants with disabilities.	_____	_____
5. Interviewers have been informed about and observe the pre-employment restrictions on questions related to disability.	_____	_____
6. We hold interviews in accessible locations.	_____	_____
7. Before an interview, we provide detailed directions and accessibility information on interview locations to applicants.	_____	_____
8. We provide detailed information to applicants on job functions.	_____	_____
9. When requested we provide interpreters or other forms of accommodation during interviews.	_____	_____
10. Interview questions focus on eliciting information about an applicants ability to do the job.	_____	_____
11. Before interviews, interviewers know and prepare questions concerning the applicants ability to perform functions of the job.	_____	_____

- | | Yes | No |
|--|-------|-------|
| 12. We have a procedure for addressing requests for accommodation. | _____ | _____ |
| 13. During interviews interviewers are willing to discuss and consider how any job function may be performed in an alternative manner. | _____ | _____ |
| 14. We ask all applicants the same questions. | _____ | _____ |
| 15. We maintain information associated with requests for accommodation and disability in a confidential manner. | _____ | _____ |

About IAM CARES

IAM CARES is the nonprofit corporate subsidiary of the International Association of Machinists and Aerospace Workers (IAM). In 1986, IAM established its Center for Administering Rehabilitation and Employment Services, better known by its acronym of IAM CARES, as the organizational home for its services for people with disabilities. IAM actually began providing rehabilitation and employment services for people with disabilities in 1980 through a grant from the Rehabilitation Services Administration's Projects With Industry (PWI) program. Since that date, IAM PWI projects, in cooperation with 1,500 employers, have facilitated the employment of more than 9,000 people with disabilities.

**COMPLYING WITH THE
AMERICANS WITH DISABILITIES ACT**

**A Guide for Approaching
Job Descriptions
and
Determining Qualifications**



**International Association of
Machinists and Aerospace Workers**

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and Employment Services**

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Background

Title I of the Americans with Disabilities Act, the ADA, takes effect for employers with 25 or more employees on July 26, 1992, and for employers with 15 or more employees on July 26, 1994. Title I requires that employers treat individuals with disabilities fairly and not deny an employment opportunity or benefit to an individual because of a disability. Since an employer's approach to job descriptions and use of qualification standards are directly connected to employment opportunities, they are affected by Title I of the ADA.

Two definitions in the ADA help set the context for understanding how an employer may elect to deal with job descriptions and qualification standards. These definitions define who is protected from discrimination under the ADA. *An individual with a disability* is an individual who has a physical or mental impairment that substantially limits a major life activity, a record of such an impairment, or is regarded as having such an impairment. Thus, under this definition the employer should take care to treat — individuals who have disabilities, those who had disabilities in the past, or those whom employers *believe* are disabled — fairly. Said another way, an employer should not make an employment decision with negative consequences for an individual based solely on the fact that an individual has or had, or the employer believes an individual has or had a physical or mental impairment that substantially limits a major life activity, such as — walking, talking, seeing, hearing, caring for oneself, breathing, learning, or working.

A qualified individual with a disability is one who satisfies the requisite skill, experience, education and other job-related requirements of the employment position that the individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of the position. This definition is important. It tells the employer that an individual must be qualified to be considered for a job. Thus, the need for reasonable accommodation may arise in determining whether an individual with a disability can perform the essential functions of the job, which in turn determines whether an individual meets the second part of the definition of a qualified individual with a disability.

Purpose and Organization of this Guide

This guide will be helpful to first line supervisors or hiring officials who have limited or no knowledge of the employment title of the ADA. This guide offers employers practical information about how to approach job descriptions and to determine an individual's qualifications for a job in a manner consistent with the ADA requirements. The guide is organized into ten sections:

1. how job descriptions are affected by the ADA;
2. what reasons and potential forms of evidence to take into account when judging whether a job function is essential;
3. how marginal job functions should be viewed when considering an individual with a disability;
4. suggestions related to phrasing job descriptions;
5. how job qualifications are affected by the ADA;
6. what factors are connected to determining qualifications for a job that could result in discrimination against an individual on the basis of disability;
7. how to avoid discrimination when evaluating whether an individual is qualified for a job;
8. how to approach qualifications tied to health and safety;
9. what the ADA pre-employment inquiry restrictions are; and
10. a checklist to help an employer review his or her approach to job descriptions and qualifications in terms of ADA demands.

How Job Descriptions Are Affected

Job descriptions are not required by the ADA. When a complaint is filed with the EEOC, a job description is *one form of evidence* that will be viewed by the EEOC when determining the essential functions of the job in question. However, it will be used only if the description existed before the job was advertised and before applicants were interviewed. To be useful to an employer, a job description should be current, accurate, and complete — a reflection of what individuals in that job are doing.

The ADA does not assume that the essential functions of a job remain static. For legitimate reasons, an employer may reorganize the functions of jobs (e.g., combine the essential functions of two jobs). In such instances, an individual with a disability, to acquire or hold a reconstituted job, would be expected to perform the essential functions of the new job. If necessary to perform the new, reconstituted job, the employer must provide the individual with reasonable accommodation.

What Reasons and Potential Forms of Evidence to Take into Account When Judging Whether a Job Function Is Essential

A particular job function may be essential for any of several reasons, including:

1. a job exists to perform the function (e.g., proof reader, floating supervisor);
2. there are a limited number of other employees available to perform the function (e.g., file clerk must answer the phone in a busy three-person office), or among whom the function can be distributed (e.g., during labor-intensive, heavy work periods there is no flexibility to reassign the function); or

3. a function is highly specialized, requiring an individual with special expertise or ability to perform it (e.g., ability to translate Chinese into English).

There are many forms of evidence that can be offered or reviewed in determining if a particular function is essential, including:

1. the employer's judgement;
2. a written job description;
3. the amount of time spent performing the function;
4. the consequence of not requiring the person in the job to perform the function (e.g., ability of firefighter to carry people from burning buildings);
5. the terms of a collective bargaining agreement (e.g., assignments controlled by seniority);
6. work experience of individuals who have previously performed the job and work experience of individuals who currently perform similar jobs; or,
7. the nature of the work operation (e.g., uses teams to perform functions or must have functions performed within a tight time frame).

How Marginal Job Functions Should Be Viewed when Considering an Individual with a Disability

An individual who, because of a disability, cannot perform marginal job functions cannot be disqualified from a job. Thus, analyzing job functions in terms of the reasons for and evidence of "essentiality" should help an employer distinguish between essential and marginal functions of a job. If an individual cannot perform some or all marginal functions of a particular job in order to maintain a balance in the workplace, an employer may distribute these marginal

functions to other employees and assign marginal functions from other jobs to the individual with a disability (that the individual can perform).

Suggestions Related to Phrasing in Job Descriptions

There is no absolute right way to prepare job descriptions. If an employer elects to prepare descriptions, he or she may include essential and marginal functions. In writing a job description it would be most useful for an employer to describe the purpose and results of job functions, rather than to focus on *how* the functions are to be performed. For example, if a job requires the use of a computer, the essential function is the ability to access, input, and retrieve information from the computer. It is not "essential" that an individual enter information manually or visually read it from the screen.

How Job Qualifications Are Affected by the ADA

An employer is allowed to have qualification standards and selection criteria that screen out individuals on the basis of disability, but such standards and criteria must be *job-related* and *consistent with business necessity*. If a standard or selection criterion screens out individuals on the basis of disability, it must be a legitimate measure or qualification for the *specific* job (e.g., job-related) in question, not a general class of jobs. Moreover, if a standard or selection criterion excludes individuals on the basis of disability, to be consistent with business necessity, it must be related to one or more of the essential functions of the job in question. For example, when hiring a limousine driver, an employer would not be expected to select an individual who could not see. When hiring a piano tuner, an employer would not be expected to select an individual who could not hear. In these examples being able to see or hear were qualifications connected directly to the ability to perform the essential functions of the job in question.

What Factors Are Connected to Determining Qualifications for a Job

Qualifications for a job take many forms — length and type of education, skills, work experience, licenses or certification, physical or mental ability, health and safety, or other job-related requirements, such as judgement, ability to work under pressure, or interpersonal skills. When considering an individual with a disability, an employer must judge that individual against *job-related* qualifications that are consistent with business necessity. For example, determining whether an individual meets such standards may involve testing, interviews, or ratings. In such circumstances an individual, because of a disability, may need accommodations in order for an employer to obtain a valid indication of the individual's ability.

If a standard that screens out an individual with a disability on the basis of disability is job-related and consistent with business necessity, the employer must consider if the individual could meet the standard with a reasonable accommodation unless to do so would impose an undue hardship on the business. Thus, if a qualified individual, who has a vision impairment, were being considered for a position as a curator of ancient manuscripts, if reasonable, an employer must be willing to provide magnification and lighting as accommodations when testing an individual's ability to judge manuscripts and also if hired, make it so that the individual can make such judgments.

How to Avoid Discrimination When Evaluating Whether an Individual with a Disability Is Qualified for a Job — Providing Reasonable Accommodations When Screening and Evaluating Individuals With Disabilities

In applying selection criteria or qualification standards, employers must provide reasonable accommodations to the *known* physical or mental limitations of a qualified applicant or employee with a disability unless they can show that to do so would be an undue hardship. This obligation applies to all aspects of screening and evaluation.

Generally, it is the responsibility of the individual with a disability to let the employer know if he or she needs an accommodation in such settings. Moreover, the individual is in the best position to know *what* the accommodation should be. An employer must offer reasonable accommodations during screening and evaluation of both applicants and employees with disabilities. An employer cannot deny an opportunity to continue or to participate in a screening or evaluation process simply because an individual would need an accommodation, unless the accommodation would be an undue hardship.

An undue hardship is an employer action involving significant difficulty or expense, that is — unduly costly, extensive, substantial, disruptive, or that would fundamentally alter the nature or operation of the business. Determining whether a particular accommodation would be an undue hardship must be done on a case-by-case basis. In judging the ability to provide an accommodation which is facility-based, if applicable, parent-company assets and other factors may be considered.

Providing reasonable accommodations to individuals with disabilities during screening or evaluation can take many forms such as —

1. making facilities accessible;
2. altering when or how an individual with a disability takes a test or demonstrates an ability (e.g., allowing an individual with a disability to give answers orally, which are then written down by the assistant; allowing an individual with a disability to write answers on plain paper instead of using a computerized test answer sheet);
3. offering an individual with a disability more time, a different time, or a different location to take a test, demonstrate ability, or to participate in an interview;
4. permitting an individual to submit work samples rather than using a device without assistive technology to demonstrate ability level;
5. allowing an individual to use a personal computer to communicate with an interviewer when no interpreter is available;

6. arranging for an individual to have a table and chair with arms when taking a test rather than using a "student" desk;
7. modifying examinations, training materials, or policies; or
8. providing qualified readers or interpreters.

Standards Necessary for Health and Safety

An employer may require that an individual not pose a direct threat to the health or safety of the individual or others in the workplace, if this standard is applied to all applicants for a specific job. However, an employer must meet very specific and stringent requirements under the ADA to establish that a direct threat exists. An employer must be able to: (1) demonstrate a significant risk of substantial harm; (2) identify the *specific* risk, including consideration of its duration, nature, severity, likelihood, or imminence; (3) show that the risk is current, not speculative or remote; and (4) show the assessment of risk is based on objective — medical or other factual — evidence regarding a particular individual. Even if a genuine, significant risk of substantial harm exists, an employer is expected to consider whether the risk can be eliminated or reduced below the level of a direct threat with reasonable accommodation.

Examples of risks that would *not* meet these four requirements: (1) denying employment in manufacturing to *any* individuals with cerebral palsy because of possible injury from walking on a wet concrete floor; (2) denying a clerical position to an individual with epilepsy because of a generalized concern about the effect of seizures on the atmosphere in the workplace; (3) denying a job with a heavy reading demand to an individual with a visual impairment, because of the assumption that the person's vision will worsen if such a reading burden were placed on the individual; or (4) denying employment to an individual because he or she has had one high blood pressure reading.

The ADA does not override state and local laws designed to protect the health and safety of the public, except where these laws conflict with ADA requirements (e.g., denying employment as a bus driver to an individual who uses hearing aids to correct a hearing loss).

Pre-employment Medical Inquiries

An employer cannot require a pre-employment medical exam until *after* he or she has made a conditional offer of employment, that is at the *post-offer* stage. Moreover, at the post-offer stage, an employer cannot ask an applicant with a disability to take a medical examination *unless* everyone being considered for the position is required to take such an exam. If a medical examination reveals that a prospective employee does not meet certain employment criteria, the employer must show that those criteria are job-related and consistent with business necessity. As part of that showing, the employer must also demonstrate that there is no reasonable accommodation that would enable the prospective employee to perform the essential functions of the job.

An employer may give a physical agility test (i.e., tests that do not involve medical examinations or diagnoses by a physician), prior to offering an individual a job, in order to determine physical qualifications necessary for certain jobs. If given to all applicants for a job (or employees in similarly situated jobs), such a test would not be subject to the prohibition against pre-employment medical examinations. However, if an agility test screens out or tends to screen out individuals because of disability, and if a discrimination charge is filed with the EEOC pertaining to such a test, the employer must be prepared to show that the agility test is job-related and consistent with business necessity and that the test or job cannot be performed with a reasonable accommodation.

Checklist Related to Job Descriptions and Job Qualifications

	Yes	No
1. For jobs that are vacant or soon to be vacant, we have a record of the essential functions.	_____	_____
2. Functions characterized as essential have been judged against the EEOC criteria regarding reasons for and evidence of essential functions.	_____	_____
3. Job information is phrased in terms of what each job is to accomplish, not in terms of how it is to be performed.	_____	_____
4. The information is accurate and complete, and reflects work currently being done in those jobs or similar jobs.	_____	_____
5. We evaluate an individual in terms of his or her ability to perform essential functions of the job for which the person is applying or in which the person is assigned.	_____	_____
6. When a need for reasonable accommodation arises, we have a procedure to follow that will permit us to provide such accommodation in a timely manner.	_____	_____
7. Anyone with responsibility for screening or evaluating applicants or employees is aware of ADA requirements, including those connected to medical examinations, and complies with them.	_____	_____
8. We have posted and otherwise made available notices about ADA requirements in print and non-print formats.	_____	_____

About IAM CARES

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**COMPLYING WITH THE
AMERICANS WITH DISABILITIES ACT**

**A Guide to Selected Forms
of
Accommodation**

**Rescheduling Work Hours, Restructuring a Job
or Reassigning Employees**



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Machinists and Aerospace Workers**

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Background

Title I of the Americans with Disabilities Act, the ADA, takes effect for employers with 25 or more employees on July 26, 1992, and for employers with 15 or more employees on July 26, 1994. Title I prohibits employers from discriminating against *qualified* individuals, because of disability, in any employment situation. In order to avoid discriminating against a particular individual, because of a disability, an employer may be called upon to provide reasonable accommodation to that individual. This guide covers the topic of job analysis and how it might be affected by the need to offer reasonable accommodation to qualified individuals with disabilities. This guide also gives information about three specific forms of accommodation for such individuals — setting work schedules, restructuring the functions of a job, and reassigning an employee to a vacant position.

One key to understanding the reasonable accommodation obligation imposed by the ADA is found in the law's definition of a qualified individual with a disability. *A qualified individual with a disability* is one who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position that the individual holds or desires and who, ***with or without reasonable accommodation***, can perform the essential functions of the position in question.

This definition means that an employer can continue to expect that all individuals being considered for a job, both persons with and without disabilities, have degrees, licenses, years of experience, or specific skill training associated with the job in question — if such factors are job-related and consistent with business necessity. The definition also means an individual with a disability, even when he or she meets the employer's qualifications, may require reasonable accommodation to perform the essential functions of the job.

A second key to understanding the reasonable accommodation obligation is recognizing that the need to provide reasonable accommodation to a qualified individual with a disability may arise at any point before or after the individual is hired. Thus, the employer may be required to provide reasonable accommodation when the individual is attempting to establish qualifications before being hired. For ex-

ample, the individual may have the prerequisite skills and license, but lack the ability to use two hands when performing a particular essential function. The question the employer should ask is, "Are two hands really necessary or can this function be accomplished in another way?"

Employers should recognize the importance, broad nature, and consequences of the reasonable accommodation obligation. First, if an employer fails to provide reasonable accommodation, needed because of a disability, to a qualified applicant or employee, the employer is engaging in discrimination prohibited by Title I of the ADA. Second, if an employer denies an employment opportunity because of such a need for a reasonable accommodation, the employer is engaging in discrimination prohibited by Title I of the ADA. Finally, if an employer keeps accurate and complete records of efforts to provide reasonable accommodation for individuals with disabilities such information would be evidence of good faith against a charge of discrimination on the basis of disability and reduce financial liabilities if such a charge is proven.

Purpose and Organization of this Guide

This guide will be helpful to first line supervisors or hiring officials who have limited or no knowledge of the employment title of the ADA. This guide offers employers practical information about how to look at jobs in terms of where the need to accommodate may arise and to explain and illustrate three forms of accommodation: adjusting work schedules to accommodate an individual's disability, restructuring job functions so an individual with a disability can perform the job, and reassigning an employee with a disability to a vacant position when the individual can no longer perform his or her present job even with reasonable accommodation. The guide is organized into eight sections covering:

1. what is reasonable accommodation;
2. when is it required;
3. when is an accommodation not required;

4. what is the effect of the reasonable accommodation obligation on job analysis;
5. how might rescheduling be a form of reasonable accommodation;
6. how might job restructuring be a form of reasonable accommodation;
7. when might an employer consider reassignment as a form of reasonable accommodation; and
8. an ADA checklist on the reasonable accommodation obligation.

What Is Reasonable Accommodation?

Examples of reasonable accommodation are actions such as

1. making facilities accessible e.g., putting in ramps and reserving parking spaces for individuals with disabilities;
2. restructuring or redistributing job functions (covered in this guide) e.g., when an individual with a disability is added to the work force but cannot perform the marginal job functions associated with his or her job, redistributing the marginal functions of several jobs so that an individual with a disability can perform some marginal functions while co-workers perform others;
3. altering when or how a job function is performed (covered in this guide) e.g., allowing a function to be done at a different time or in a different way;
4. offering part-time or modified work schedules (covered in this guide) e.g., permitting an individual to work a consistent shift so that he or she can easily access public transit;
5. obtaining or modifying equipment or devices e.g., letting

an individual do a job, which requires long periods of standing, sitting down;

6. modifying examinations, training materials, or policies e.g., orienting staff to assist an individual to complete an application for a job;
7. providing qualified readers or interpreters; or
8. reassigning an employee to a vacant position (covered in this guide).

Such accommodations can make a big difference to many people with disabilities. These accommodations as well as others can ensure that people with disabilities have opportunities equivalent to other individuals when applying for jobs; that individuals with disabilities are able to perform the essential functions of jobs; and that persons with disabilities have the same benefits and privileges of employment as other workers.

When Is Reasonable Accommodation Required?

Employers must provide reasonable accommodations to the *known* physical or mental limitations of a qualified applicant or employee with a disability. This obligation applies to any and all aspects of employment during job advertisement and recruitment activities, when accepting applications for a job, during testing, during interviewing, and when hiring, promoting, rewarding, or disciplining employees.

Generally, it is the responsibility of the individual with a disability to let the employer know if he or she needs an accommodation in such settings or times. Moreover, the individual is in the best position to know *what* the accommodation should be. In situations in which the employer observes that an employee with a known disability is having difficulty performing job functions, the employer may raise the issue of the need for accommodation, to overcome performance problems, with the individual.

Employers will also encounter situations in which an individual's disability is not apparent, but the individual still requires accommodation. Under such circumstances, if the employer has been informed by the individual about the need for the accommodation, and it would not be an undue hardship, the employer must provide it. For example, if an individual has a learning disability that makes it difficult for the person to write and spell correctly, the employer could allow the individual to dictate reports. If an individual had a fused spine and could not bend or lift easily, the employer could redistribute nonessential functions involving bending and lifting. If the functions were essential, the employer could allow the individual to do some functions in a sitting position. When an individual with a disability requests an accommodation and the need for it is not apparent, the employer may ask for documentation that the accommodation is necessary in order for the individual to perform the essential functions of the job.

When Is an Accommodation Not Required?

An employer is not required to provide an accommodation if it would be an undue hardship. An undue hardship is an employer action involving significant difficulty or expense; that is an action that would be unduly costly, extensive, substantial, disruptive, or that would fundamentally alter the nature or operation of the business. Determining whether a particular accommodation would be an undue hardship must be done on a case-by-case basis.

Factors to be considered when determining undue hardship:

1. Nature and cost of the accommodation.
2. The overall financial resources of the facility; number of employees; the effect on expenses and resources; or the impact of the accommodation on the facility.
3. The overall resources of the covered entity; the overall business of the covered entity the number of employees, number, type, and locations of facilities.

4. The type of operation or operations of the covered entity, including the composition, structure, and functions of the work force; geographic separateness; administrative or financial relationship to the facility.

Given its relative nature, deciding if the ADA definition of undue hardship applies in a particular case may appear challenging. The key concept underlying any analysis is *reasonableness*. How reasonable is the accommodation? Thus, what might be reasonable for a large employer might be unreasonable or an undue hardship for a small employer. For example, a "mom and pop" cheese cake bakery has decided to take mail/phone cake orders for the Christmas season. Given the size and nature of their operation, hiring an individual who is deaf to handle telephone orders might be an undue hardship — the person would be the only one taking phone orders and would need a text telephone; locating and installing the phone would take time and be costly for the bakery; and using the phone would slow down the number of orders that could be taken. If the facts were changed to include a large, national mail order house that manufactures and sells sport clothing directly to the public, hiring an individual who is deaf and providing the person with a text telephone might not be an undue hardship because of the size of the work force and the availability of shift work that has light to moderate call-in rates.

There is one special circumstance in which reasonable accommodation is not required. Among the forms of discrimination prohibited by the ADA is discrimination against an individual, because of the individual's known association with or relationship to an individual with a disability. For example, if an employer knows that an individual's spouse is terminally ill and *on that basis* decides not to hire the qualified individual, that would be a violation of Title I of the ADA. However, if the employer does hire the person with a terminally-ill spouse, the ADA does not require that the employer provide reasonable accommodation the person.

So, if the same individual, as a condition of accepting an offer of employment, requests two hours, mid-day, three times a week to take the ill spouse to treatment, the employer could refuse the request and not offer the individual the job without violating the ADA.

Finally, an accommodation is not required if an individual refuses it. If, however, the individual rejects an accommodation that is necessary to enable the individual to perform the essential functions of the job, then the individual would not be considered qualified and the employer could withdraw the offer of employment.

What Is the Effect of the Reasonable Accommodation Obligation on Job Analysis?

The employer should know the functions of a job before the issue of accommodation arises. Thus, job analysis, what a job is made of, is a prerequisite to any discussion of accommodation. These discussions may, however, cause employers to look at jobs in new ways in the future.

Does a clerk typist position have physical demands? Does a warehouse stocker position have cognitive demands? Does a bookkeeper position demand social skills? The answers are Yes. Yes. Yes. Yet, it is likely that in the past, the answers to these questions, if asked, would have been no. A clerk typist not only types, but probably collates, staples, carries, and files papers and is expected to be capable of using two hands simultaneously. These are *all* physical tasks, but pre-ADA it was unlikely that anyone thought about such demands or considered them as physical in nature. Obviously such demands can influence if, when, and how the individual can do a job. Now, the ADA requires that employers be willing to engage in a new level of inquiry.

When the need for accommodation arises the employer should undertake a four-step process.

1. Consider the *particular* job — identify its purpose and its essential functions (if this job analysis has not yet been done). Questions to consider when classifying job functions:

Why does this job exist (e.g., to guard confidential files, to develop training materials, to pack cases)?

For any function — how many people are available to do it (e.g., standing and doing copying, carrying copies once made)?

For any function — does it require special skill or expertise (e.g., to interpret gauge readings, to operate equipment, to translate into English from another language)?

Answers to these questions will help the employer to identify the reasons a job exists and to begin to distinguish between essential and nonessential functions of the job. To check on the validity of a function an employer has classified as essential the following questions should be considered:

In my judgement is this function essential?

Does the job description indicate that this function is essential?

Does a person in this job spend a lot of time doing this function?

What would happen if a person in this job did not or could not do this function? (E.g., airplane pilots land infrequently, but they must know how and be able to land planes.)

Is this function addressed in a collective bargaining agreement as being part of this job?

Did people that had this job in the past performed this function?

Do people in similar jobs now perform this function?

2. Identify barriers to performance of the job (e.g., physical and mental limitations that relate to the performance of essential functions).
3. Consult with the individual—identify potential accommo-

dations and assess their effectiveness (e.g., which accommodations would enable the individual to perform the essential functions of the job).

4. Select the accommodation that serves the need of the individual and the employer.

In selecting an accommodation the employer should take into account and give first consideration to the individual's preference for an accommodation. However, faced with several accommodations that are equally effective, the employer may pick one that is less costly and easy to provide.

Sometimes an individual with a disability will provide his or her own accommodation. If at some point an individual cannot or will not continue to provide his or her own accommodation, then the employer must do so if doing so would not be an undue hardship.

How Might Rescheduling be a Form of Reasonable Accommodation?

Rescheduling the work day or week to accommodate an individual's disability could take a variety of forms. An employer could allow an individual with a disability to work part time. An employer could allow an individual with a disability to work a 40-hour week on a flexible schedule, such as — part of the time at home and part of the time in the workplace. An employer could allow an individual with a disability to have paid and/or unpaid leave. An employer would be expected to consider one or more of these options if requested. An employer would also be expected to consider such options if they were the result of discussion about accommodation with a particular individual. The employer would not be expected to provide a particular accommodation if doing so would cause an undue hardship.

When might the need to consider such forms of accommodation occur? Here are some examples and possible solutions.

1. *Time off.* An individual needs two hours off for physical therapy each week during business hours. Possible solution: The individual stays late 30 minutes four days a week to compensate for the time away from the office related to therapy.
2. *Constant shift.* An individual must take medication and eat on a rigid schedule. Possible solution: Allow the individual to work the same shift every week rather than to alternate shifts as co-workers do.
3. *Work at home part of time or on weekends.* An individual requires medical treatment lasting over several hours during work time. Possible solution: Allow the individual to put in time at home at night or let the individual work on weekends.
4. *Frequent breaks.* An individual needs to rest at intervals during the day to control or prevent fatigue. Possible solution: Permit the individual to stay 30 minutes longer at the end of the work day to compensate for breaks taken that exceed those allowed other employees.
5. *Unpaid leave.* An individual needs two weeks out of the office to learn how to use a new artificial limb. Possible solution: Given the pending work load, discuss with the individual the best time for the unpaid leave to occur.
6. *Leave.* The heating system is operating erratically, and this adversely affects an individual's ability to perform. Possible solution: Let the person work at home until the heating system is repaired.
7. *Late arrival to work.* An individual is dependent on public transportation to get to work, but it is difficult for the individual to navigate safely during peak rush hour time. Possible solution: Let the individual work a schedule that begins an hour later than other employees.

The employer is not required to offer any or all accommodation

options outlined here. However, the employer cannot dismiss or discount such options either. The exploration of accommodation needs must be done on a case-by-case basis taking into account the individual's needs and the affect of a particular accommodation on the business. If offering a particular accommodation of rescheduling would be an undue hardship, an employer would not be required to provide it. Nonetheless, the several examples outlined here highlight a range of options that could work in varied settings with simple adjustments and some planning. Thus, even though one particular option may be an undue hardship in a specific situation, the employer must be willing to consider other forms of rescheduling that would not be an undue hardship.

How Might Job Restructuring Be a Form of Reasonable Accommodation?

Restructuring for the purposes of Title I of the ADA may be thought of in two ways. First, restructuring as a form of accommodation could involve distributing a series of marginal (i.e., nonessential) job functions of several jobs in a way that would be different from how they had been distributed in the past. Such an action might be appropriate if an individual, because of a disability, could not do some marginal job functions of his or her job, but could do other marginal job functions routinely done by co-workers. Depending on the circumstances marginal job functions could be almost anything such as answering the phone on fourth rings, delivering mail, copying and collating, stuffing envelopes, pumping gas, taking inventory on high shelves, boxing or unpacking materials, cleaning equipment, ordering products or making reservations by phone.

Second, restructuring as a form of accommodation could involve allowing the individual to perform essential functions of his or her job (1) in a different manner, (2) with aids, or (3) at different times than others in the same or similar jobs. Here are examples of these forms of restructuring:

1. *Change in method.* An individual with a disability who has difficulty recording information on printed forms, could be given a computerized version of the forms and allowed to

enter all information from a key board.

2. *Orientation aid.* An individual with a disability who has trouble remembering sequences of tasks or procedures could be given a list to check off or pictures to refer to as he or she proceeds through a series of duties.
3. *Change in time.* An individual with a disability who has fine motor coordination difficulties in the morning could be allowed to do duties that require fine motor coordination in the afternoon.

As with other forms of accommodation, the analysis of whether restructuring is an appropriate form of accommodation must be done on a case-by-case basis. The employer would not be expected to provide those restructuring options that would result in an undue hardship. In addition, it is important to remember the distinction between essential and marginal job functions in terms of restructuring.

The employer has an obligation to consider redistributing *marginal* functions of a job or jobs as a form of restructuring. The employer has *no* obligation to consider redistribution of *essential* functions of a job as a form of restructuring.

To be considered qualified, an individual with a disability must be able to perform the essential functions of the job in question, with or without reasonable accommodation. Restructuring as it relates to essential functions simply means that the employer consider how or when the essential functions could be done differently to accommodate an individual's disability, while still achieving desired results and without causing an undue hardship. The employer is not expected to redistribute *any* of the essential functions of a job for which an individual with a disability is being considered.

When Might an Employer Consider Reassignment to a Vacant Position as a Form of Reasonable Accommodation?

Reassignment to a vacant position is a form of accommodation for employees, but not applicants, with disabilities. Generally, it is

appropriate to consider reassignment in any of these situations:

1. when an accommodation is not possible in an employee's current job;
2. when an accommodation in that job would cause an undue hardship; or
3. when both the employer and the employee agree that reassignment is more appropriate than accommodation in the employee's current job.

The need to consider reassignment may arise when an employee becomes disabled, when an employee's disability becomes more severe, or when changes in equipment or technology prevent the employee, even with reasonable accommodation, from doing his or her job.

An employer is not expected to create a new job or bump other employees for an employee who can no longer do his or her job because of a disability.

Under the ADA the employer's first obligation is to provide an individual with reasonable accommodation in the individual's present job. If that cannot be achieved, then the employer may consider the individual for a vacancy or pending vacancy that is equivalent in terms of status and pay to the individual's current position.

When considering reassignment as a form of accommodation the employer should take into account the types of jobs for which the individual is qualified; the frequency with which such jobs are vacant; the employer's general policies on reassignment; and any of the employer's policies pertaining to sick and injured employees.

If the employee with a disability is not qualified for a vacant position at the level of his or her current job or if no vacancies in comparable positions are anticipated within a reasonable amount of time, then the employer may reassign the person to a lower graded position. If the employer takes such an action he or she is not obligated to maintain the individual's original salary.

Whether an employer elects to assign an individual with a disability to a vacant position for which the individual qualifies, is discretionary. The ADA does not mandate, in response to the reasonable accommodation, that the employer give preference to the individual with a disability over other qualified individuals.

Checklist on the Reasonable Accommodation Obligation

	Yes	No
1. We have reviewed and, to the extent appropriate, revised policies related to work schedules and leave in order to maximize flexibility when faced with a need to provide schedule-related accommodations to an individual because of a disability.	_____	_____
2. We have a record keeping system for documenting good faith efforts to provide reasonable accommodation.	_____	_____
3. To the extent practical, job information is phrased in terms of essential functions and what each job is to accomplish, not in terms of how it is to be performed.	_____	_____
4. Job information is available to applicants and employees.	_____	_____
5. Job information guides the actions of our hiring officials.	_____	_____
6. When a need for reasonable accommodation arises, we have a procedure to follow that will permit us to provide such accommodation in a timely manner.	_____	_____
7. When faced with the potential reassignment of an employee with a disability, the management involved takes actions consistent with ADA requirements.	_____	_____
8. An individual, in need of an accommodation because of a disability, is involved in discussions about and selection of accommodation that will enable the individual to do the essential functions of the job.	_____	_____

About IAM CARES

IAM CARES is the nonprofit corporate subsidiary of the International Association of Machinists and Aerospace Workers (IAM). In 1986, IAM established its Center for Administering Rehabilitation and Employment Services, better known by its acronym of IAM CARES, as the organizational home for its services for people with disabilities. IAM actually began providing rehabilitation and employment services for people with disabilities in 1980 through a grant from the Rehabilitation Services Administration's Projects With Industry (PWI) program. Since that date, IAM PWI projects, in cooperation with 1,500 employers, have facilitated the employment of more than 9,000 people with disabilities.

**COMPLYING WITH THE
AMERICANS WITH DISABILITIES ACT**

A Guide to Selected Forms
of
Accommodation

Modified and Specialized Equipment



**International Association of
Machinists and Aerospace Workers**

**Center for Administering Rehabilitation
and Employment Services**

9000 Machinists Place
Upper Marlboro, Maryland 20772-2687

U.S. Department of Education Grant #H133D10123
For ADA information call: 1-800-949-4232



IAM CARES is authorized and funded by the U.S. Department of Education, Office of Special Education and Rehabilitation Services, National Institute on Disability and Rehabilitation Research (NIDRR), grant #H133D10123, to provide information, materials, and technical assistance to individuals and entities that are covered by the Americans with Disabilities Act (ADA). However, you should be aware that NIDRR is not responsible for enforcement of the ADA. The information, materials, and/or technical assistance are intended solely as informal guidance, and are neither a determination of your legal rights or responsibilities under the Act, nor binding on any agency with enforcement responsibility under the ADA.

Background

Title I of the Americans with Disabilities Act, the ADA, takes effect for employers with 25 or more employees on July 26, 1992, and for employers with 15 or more employees on July 26, 1994. Title I prohibits discrimination against *qualified* individuals, because of disability, in any employment situation. In order to avoid discriminating against a particular individual because of a disability, an employer may be called upon to provide reasonable accommodation to that individual. Providing such accommodation in some circumstances may involve modifying elements of a production operation, commonly called equipment modification, or acquiring specialized equipment, such as software that allows a computer to "talk" to the user. This capability is commonly called voice synthesizer software.

The ADA addresses modified and specialized equipment (see number 5 below). The full range of examples of reasonable accommodation referenced in connection with the ADA are:

1. making facilities accessible — e.g., putting in ramps and reserving parking spaces for individuals with disabilities;
2. restructuring or redistributing job functions — e.g., when an individual with a disability is added to the work force but cannot perform the marginal job functions associated with his or her job, redistributing the marginal functions of several jobs so that an individual with a disability can perform some marginal functions while co-workers perform others;
3. altering when or how a job function is performed — e.g., allowing a function to be done at a different time or in a different way;
4. offering part-time or modified work schedules — e.g., permitting an individual to work a consistent shift so that he or she can easily access public transit;

5. obtaining or modifying equipment or devices — e.g., letting an individual hired as a check-out clerk do his job while sitting instead of standing like other clerks;
6. modifying examinations, training materials, or policies — e.g., providing training materials in large print for employees with limited vision;
7. offering qualified readers or interpreters; or
8. reassigning an employee to a vacant position.

This guide does not address all forms of accommodation. It does provide examples, strategies, and resources that will help employers to identify reasonable accommodations that involve modified or specialized equipment.

Purpose and Organization of this Guide

This guide will be helpful to first line supervisors or hiring officials who have limited or no knowledge of the employment title of the ADA. The guide is organized into six sections covering:

1. principles underlying the obligation to accommodate and their implications;
2. a suggested process to follow when an unfamiliar need to accommodate arises;
3. examples of accommodations in the form of equipment modification;
4. examples of accommodations in the form of specialized equipment;
5. a rationale for maintaining information on modified and specialized equipment; and
6. some sources that employers can tap when looking for accommodations involving modified and specialized equipment.

The Principles Underlying the Obligation to Accommodate and Their Implications

The ADA is based on several principles that are associated with civil rights — equal opportunity, equal access, integration, and the provision of reasonable accommodation. Most people understand the first three — offering individuals with disabilities the same opportunities as others; removing barriers, physical, policy-related, or social, that restrict opportunities; and finally, offering participation along with other people in any and all events of living, including working.

The fourth principle — providing reasonable accommodation — is perhaps less well understood, and yet it is often the most critical. Without the availability of accommodation, the other civil rights principles could be rendered meaningless. The reasonable accommodation obligation is the cornerstone of the employment requirements of the ADA. It requires a case-by-case analysis. In order for a particular individual with a disability to qualify for a job and to perform its essential functions, accommodation may be required — an opportunity to take a test in a different way or to perform a job function in a different manner from others, or to be given assistance in the performance of a task, either in the form of equipment, change in procedure, or help from another individual.

Sometimes the need for accommodation is obvious, as is how to provide it; for example, putting a desk on blocks or removing the center drawer so a wheelchair can fit under it. Other times, the need for accommodation may be obvious, but how to provide it is less so; such as effectively integrating an individual who cannot see into the *entire* information flow of the workplace.

Regardless of the context, the ADA expects employers to follow these guidelines when looking at a need for an accommodation:

1. Consider the *particular* job — identify its purpose and its essential functions (if this job analysis has not yet been done).

2. Consult with the individual with the disability who is to benefit from the accommodation — identify barriers to performance of the job (e.g., physical and mental limitations that relate to the performance of essential functions).
3. In consultation with the individual, identify potential accommodations and assess their effectiveness (e.g., which accommodations would enable the individual to perform the essential functions of the job). When faced with a situation in which the need to accommodate is clear but how to accommodate is not, employers may want to consider the following questions:
 - (a) *Change in position:* Can the individual, if allowed to assume a different position, perform the essential function as others do?
 - (b) *Change in time or timing:* Can the individual, with an adjustment in time (e.g., when it is done, how long it is done) or timing (e.g., speed with which it is done), perform the essential function as others do?
 - (c) *Addition of material, equipment, support:* Can the individual, with additional material (e.g., cue cards, pictures), equipment (e.g., voice synthesizer), or support (e.g., reader or interpreter), perform the essential function as others do?
 - (d) *Change in process or procedure:* Can the individual perform the essential function and *achieve* the same outcome as others if the *process or procedure* is altered (e.g., sequencing of tasks, nature of tasks, number of tasks, actions of others)?
4. Consider the preference of the individuals to be accommodated and select the accommodation that serves the need of the individual and the employer.

If the employer uses these guidelines and makes sure the individual understands the essential functions of the job, office procedure, and/or the production sequence, most reasonable accommodations, consistent with these guidelines, will become apparent and how they could be provided will emerge. Situations that involve the need to provide accommodation involving equipment modification or the acquisition of specialized equipment may require expertise or knowledge beyond that of the employer or the individual with a disability, yet here too there are options.

Accommodations Associated with Equipment Modification

Equipment modification involves making changes to existing equipment. It requires technical expertise (e.g., rehabilitation engineering) and results in customization that is unique to specific production circumstances. Two forms of equipment modification are control panel modification and the addition of equipment that allows alternative means of product handling.

For example, rehabilitation engineers can modify production line control panels to enable individuals with one arm, no use of arms, limited vision, or hearing impairments to operate the panels. An individual with one arm might be able to operate control functions, traditionally requiring two hands, if functions were consolidated so they could be done with one hand. If an individual has no use of his arms, a control panel might be modified so the individual could use his head to operate the panel. In a situation involving an individual with low vision, key panel switches might be enlarged and painted in clearly contrasting colors. For an individual who is deaf, lights of different colors might be attached to different control panel functions. One final example: the nature of operating switches or the pressure or dexterity required to operate them might be altered to accommodate a variety of physical impairments.

Material handling is often a key function of a production line for which operation and rehabilitation engineers have also developed equipment modification options to accommodate individuals with disabilities, especially those with limited reach or low back pain. The adaptations made are often customized hoist rigs and robotics.

Accommodations Associated with Acquiring Specialized Equipment

The need for specialized equipment could arise in numerous situations, and involve high tech and low tech solutions. The high tech solutions most frequently needed will be those associated with telephone and computer use by individuals with sensory, speech, or mobility impairments. Assistive technology in these areas are well developed and readily available. Low tech solutions, although readily available, are often made known by word-of-mouth and frequently are the result of invention by necessity. Such solutions could benefit individuals with varied disabilities.

In the area of assistive technology associated with telephone use head sets are a common assistive device for individuals who do not have full use of their hands or arms, or need hands free to do other tasks while using the phone. There are text telephones for persons with hearing or speech impairments to which can be attached an answer-machine-type function or Brailled-message function. In addition, text telephones can be channeled through general office telephone lines or separate lines, with coding that lets an individual know that information is coming in from a text telephone line. A simple alternative to a telephone "ring" is a flashing light that can be attached to the phone line of an individual who has a hearing impairment to let the person know that a call is coming in.

Assistive technology related to computer use is also varied and readily available. In addition to voice synthesizers, there are screens and software that allow large print, heightened contrast for foreground and background, and to a lesser extent, voiced-command operation and data entry capability is available. Computer software is also available for producing documents in Braille and reading material from print texts with a voice synthesizer.

There is also assistive technology for special circumstances and personal needs; for example, special alarm systems and procedures for individuals with sensory impairments, talking watches and calculators for individuals who are blind, and flashing alarm clocks for individuals who are deaf.

In the low tech arena or innovative category, there are lazy susans that could be used by individuals with limited reach to access multiple files easily; clip boards anchored to desks with every-day vices to hold papers, as well as fat pens and pencils, for individuals with limited fine motor ability or involuntary movement; electrical circuits that can be operated by clapping hands, light beams, or eye movement; and levers that can be placed on door knobs that rotate so that the doors can be opened by downward pressure only. There is also an extensive array of carts that can be used for stability while walking and transporting material.

Maintaining Information on Modified or Specialized Equipment

As a general matter it is important for employers to keep records, as evidence of good faith, on efforts to accommodate individuals with disabilities. Keeping such records on efforts to provide accommodations in the form of modified or specialized equipment assumes even greater significance. Such accommodations take more time to locate or fabricate, often require special expertise to install, training to use, and involve special maintenance requirements. In addition, such efforts may include a high degree of individualized customization.

Given the nature and level of effort employers may need to invest in accommodations which include modified and/or specialized equipment, accurate, complete record keeping can make a difference both in time and money. For example, if a rehabilitation engineer were to fabricate a customized product handling device for a particular individual, the specifications for the fabrication might be applied in a future situation with minor modification. If the employer kept the specifications for the fabrication, he or she might be able to avoid hiring external expertise the next time the need for a similar product handling device occurs.

Keeping records may not only save employers time and money, but also become an internal resource directory that reflects the durability, reliability, and quality of accommodations. The following is an example of a form that could be used to maintain records on accommodations involving modification or the acquisition of specialized equipment.

**Accommodation Involving Modified
or
Specialized Equipment**

1. Description of accommodation: _____

2. Purpose/function: _____

3. Other accommodations needed in conjunction with this accommodation: _____

4. Time from inquiry to delivery: _____ Cost: _____
5. Special installation required: _____
6. Training required: _____
7. Maintenance required:
Internal: _____
External: _____
8. Can be used by employees without disabilities: _____
9. Effect on other employees, if any: _____

10. Internal person to contact on use (durability, flexibility, reliability, safety, ease of use): _____

11. External references to contact on use: _____

12. Vendor used (for equipment): _____

13. External expertise consulted (for technical assistance or fabrication):

14. Consultant contact information (address/telephone):

15. Contacted for:

Information: _____

Equipment: _____

Design fabrication: _____

Fabrication/installation: _____

Training: _____

Maintenance: _____

Repair: _____

Other: _____

16. Record of data entry:*

Name	Date	Number(s) entered, updated, altered (1-15)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

* It is assumed that one or several persons will maintain accommodation records on a computer file. In order to keep track of who did what and when — this item could function as a tracking mechanism so that anyone can enter information on any item(s) to input information, update information, or alter it by date so that the record can be kept current. For example:

Name	Date	Number(s) entered, updated, altered (1-15)
John Smith	5/14/93	1,2,3
Ann Jones	5/16/93	13-15
John Smith	5/20/93	4-12
Harry Brown	1/15/94	13-15 (change in consultant to maintain device)

Resources that Employers Can Tap

Job Accommodation Network.

Many resources are available to assist employers accommodate individuals with disabilities. One source, the **Job Accommodation Network (1-800-526-7234)**, has been in operation since 1984 and can provide information on products and strategies, experts, and costs on the full array of accommodations being used successfully in the workplace.

Disability and Business Technical Assistance Centers.

There are ten regional **Disability and Business Technical Assistance Centers**, established in 1991 through funding by the U.S. Department of Education, National Institute on Disability and Rehabilitation Research, to provide information, technical assistance, and training on the ADA. The services of these centers include information on how to accommodate individuals with disabilities. A center in any region can be accessed through a general number: **1-800-949-4232**.

State Technology Assistance Programs.

The U.S. Department of Education, National Institute on Disability and Rehabilitation Research has funded many state technology-related assistance projects that provide information and training on where to buy or borrow and how to use and repair assistive technology. States and telephone numbers are listed below.

Alaska	(907) 274-0138
Arkansas	(501) 666-8868
Colorado	(303) 420-2942
Illinois	(217) 522-7985
Indiana	(317) 233-3394
Iowa	(319) 353-6386
Kentucky	(502) 564-4665
Maine	(207) 621-3195

Maryland	(301) 333-3098
Massachusetts	(617) 727-5106
Minnesota	(612) 297-1554
Mississippi	(601) 354-6891
Nebraska	(402) 471-0735
Nevada	(702) 885-4440
New Mexico	(505) 827-3522
New York	(518) 473-4129
North Carolina	(919) 850-2787
Oregon	(503) 378-3830
Tennessee	(615) 741-380
Utah	(801) 750-1982
Vermont	(802) 241-2186
Virginia	(804) 367-0316
Wisconsin	(608) 267-6720

Rehabilitation Engineering Centers.

California (415) 561-1658

The Smith-Kettlewell Rehabilitation Engineering Center
 Smith-Kettlewell Eye Research Foundation
 Rehabilitation Engineering Center
 2232 Webster Street
 San Francisco, CA 94115

Connecticut (203) 659-1166

Rehabilitation Engineering Center for Technology Resources
 Institute for Human Resource Development
 78 Eastern Boulevard
 Glastonbury, CT 06033

Delaware (302) 651-6830

Rehabilitation Engineering Center on Augmentative Communication
University of Delaware
Department of Computer & Information Science
Newark, DE 19711

District of Columbia (202) 651-5051

(202) 651-5052 (TDD)
Gallaudet University
National Center on Deafness
Kendall Green
800 Florida Avenue, N.E.
Washington, D.C. 20002

Illinois (312) 908-8660

Rehabilitation Engineering Center on Prosthetics and Orthotics
Northwestern University
Rehabilitation Institute of Chicago
845 East Superior Street, Room 1441
Chicago, IL 60611

Kansas (316) 688-1888

Rehabilitation Engineering Center on Modifications to Worksites
and Educational Settings
Cerebral Palsy Research Foundation of Kansas
2021 North Old Manor, Box 8217-0217
Wichita, KS 67208

New York (718) 899-8800

Rehabilitation Engineering Center on Technological Aids for Deaf
and Hearing-Impaired Individuals
The Lexington Center, Inc.
Research and Training Division
30th Avenue and 75th Street
Jackson Heights, NY 11870

New York (516) 944-8900

Helen Keller National Center for Deaf-Blind Youths and Adults
111 Middle Neck Road
Sands Neck, NY 11050

Ohio (216) 459-3480

Rehabilitation Engineering Center in Functional Electrical
Stimulation
Case Western Reserve University
School of Medicine
2119 Abington Road
Cleveland, OH 44106

Vermont (802) 656-4067

Rehabilitation Engineering Center in Low Back Pain
University of Vermont
Department of Orthopedics and Rehabilitation
1 South Prospect Street/REC
Burlington, VT 05404

Virginia (804) 977-6730

Rehabilitation Engineering Center on Improved Wheelchair and
Seating Design
University of Virginia
Rehabilitation Engineering Center
Box 3368 University Station
Charlottesville, Va 22903

Wisconsin (608) 262-6966

Rehabilitation Engineering Center on Access to Computers and
Electronic Equipment
University of Wisconsin
Trace Center
750 University Avenue
Madison, WI 58706

Forms of Financial Assistance

There are several sources of financial assistance to help employers make accommodations and comply with ADA requirements.

1. ***Tax Credit for Small Business*** (Section 44 of the Internal Revenue Code)

In 1990, Congress established a special tax credit to help smaller employers make accommodations required by the ADA. An eligible small business may take a tax credit of up to \$5000 per year for accommodations made to comply with the ADA. The credit is available for one-half the cost of "eligible access expenditures" that are more than \$250 but less than \$10,250.

An ***eligible small business*** is one with gross receipts of \$1 million or less for the taxable year, or 30 or fewer full time employees.

"Eligible access expenditures" for which the tax credit may be taken include the types of accommodations required under Title I of the ADA as well as accessibility requirements for commercial facilities and places of public accommodation under Title III. "Eligible access expenditures" include:

- removal of architectural, communication, physical, or transportation barriers to make the business accessible to, or usable by, people with disabilities;
- providing qualified interpreters or other methods to make communication accessible to people with hearing disabilities;
- providing qualified readers, taped texts, or other methods to make information accessible to people with visual disabilities; and/or
- acquiring or modifying equipment or devices for people with disabilities.

To be eligible for the tax credit, changes made to remove barriers or to provide services, materials or equipment must meet technical standards of the ADA Accessibility Guidelines, where applicable.

2. ***Tax Deductions for Architectural and Transportation Barrier Removal*** (Section 190 of the Internal Revenue Code)

Any business may take a full tax deduction, up to \$15,000 per year, for expenses of removing specified architectural or transportation barriers. Expenses covered include costs of removing barriers created by steps, narrow doors, inaccessible parking spaces, toilet facilities, and transportation vehicles. **Both** the tax credit and the tax deductions are available to eligible small business.

Source: *Technical Assistance Manual for the Americans with Disabilities Act*, prepared by the Equal Employment Opportunity Commission.

About IAM CARES

IAM CARES is the nonprofit corporate subsidiary of the International Association of Machinists and Aerospace Workers (IAM). In 1986, IAM established its Center for Administering Rehabilitation and Employment Services, better known by its acronym of IAM CARES, as the organizational home for its services for people with disabilities. IAM actually began providing rehabilitation and employment services for people with disabilities in 1980 through a grant from the Rehabilitation Services Administration's Projects With Industry (PWI) program. Since that date, IAM PWI projects, in cooperation with 1,500 employers, have facilitated the employment of more than 9,000 people with disabilities.



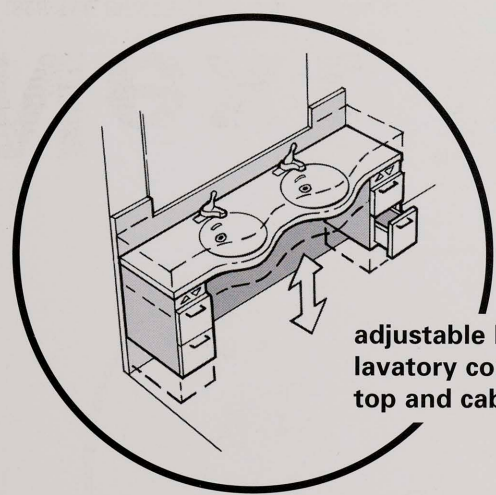
Americans with Disabilities Act

ADA: Implementation Dates

P.L. 101-336

The President's Committee on Employment of People with Disabilities

Title	Law's Effective Date	Regulations Due by Federal Agency	Enforcement Jurisdiction
Title I Employment	July 26, 1992 for employers with twenty-five (25) or more employees; July 26, 1994 for employers with fifteen (15) or more employees.	July 26, 1991 all regulations due from Equal Employment Opportunity Commission (EEOC).	Remedies identical to those under Title VII of the Civil Rights Act of 1964 which are private right of action, injunctive relief, i.e. job reinstatement, back pay, and EEOC enforcement.
Title II Public Services All activities of local and state governments	January 26, 1992	July 26, 1991, all regulations due from Attorney General	Remedies identical to those under the Rehabilitation Act of 1973 Section 505 which are private right of action, injunctive relief, and some damages.
(Part I) Public transportation (buses, light and rapid rail including fixed-route systems, paratransit, demand response systems and transportation facilities).	August 26, 1990, all orders for purchases or leases of new vehicles must be for accessible vehicles; one-car-per-train must be accessible as soon as practicable, but no later than July 26, 1995; paratransit services must be provided after January 26, 1992; new stations built after January 26, 1992 must be accessible. Key stations must be retrofitted by July 26, 1993; with some extensions allowed up to July 26, 2020.	July 26, 1991, all regulations due from Secretary of Transportation.	Same as above.
(Part II) Public transportation by intercity Amtrak and commuter rail (including transportation facilities).	By July 26, 2000, Amtrak passenger coaches must have same number of accessible seats as would have been available if every car were built accessible; half of such seats must be available by July 26, 1995. Same one-car-per-train rule and new stations rule as above. All existing Amtrak stations must be retrofitted by July 26, 2010; key commuter stations must be retrofitted by July 26, 1993 with some extensions allowed up to 20 years.	July 26, 1991, all regulations due from Secretary of Transportation.	Same as above.
Title III Public accommodations operated by private entities.			
A. Public accommodations (all business and service providers).	In general, January 26, 1992, except no lawsuits may be filed before July 26, 1992 against businesses with twenty-five (25) or fewer employees and revenues of \$1 million or less: or before January 26, 1993 for businesses with ten (10) or fewer employees and revenues of \$500,000 or less.	July 26, 1991, regulations due from Attorney General. Standards must be consistent with the Architectural and Transportation Barriers Compliance Board (ATBCB) guidelines due April 26, 1991.	For individuals, remedies identical to Title II of the Civil Rights Act of 1964 which are private right of action, injunctive relief: For Attorney General enforcement in pattern or practice cases or cases of general importance with civil penalties and compensatory damages.
B. New construction / alteration to public accommodations and commercial facilities.	January 26, 1992, for alterations. January 26, 1993 for new construction.	Same as above.	Same as above.
C. Public transportation provided by private entities.	In general, January 26, 1992, but by August 26, 1990 all orders for purchases or leases of new vehicles must be for accessible vehicles. Calls for a three (3) year study of over-the-road buses to determine access needs with requirements effective July 26, 1996 to July 26, 1997.	July 26, 1991, regulations due from Secretary of Transportation. Regulations will be based on standards issued by the Architectural and Transportation Barriers Compliance Board (ATBCB). Due April 26, 1991.	Same as above.
Title IV Telecommunications	July 26, 1993, telecommunications relay services to operate twenty-four (24) hours per day.	July 26, 1991, all regulations due by the Federal Communications Commission.	Private right of action and Federal Communications Commission
Title V Miscellaneous	Effective dates of Title V are those determined by most of the analogous sections in Titles I through IV.	In general this title depicts the ADA's relationship to other laws, explains insurance issues, prohibits state immunity, provides congressional inclusion, sets regulations by ATBCB, explains implementation of each title and notes amendments to the Rehabilitation Act of 1973.	

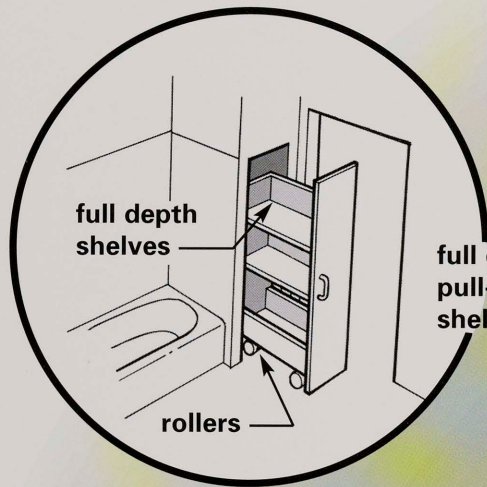


adjustable height lavatory counter top and cabinets



toilet seat height electrically adjustable for use by children and older adults

FLOOR 2



full depth shelves
rollers

full extension pull-out storage shelving system

casement and awning windows with crank or motorized openers

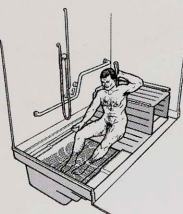
FLOOR 1

level bridge

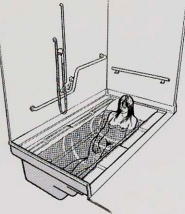
retaining wall at floor level of house

D sunken tub with floor system that converts to wet area or roll-in shower or high and low shower seat

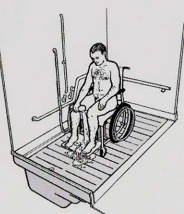
Multi-Mode Bathing Fixture



high and low seated shower



sunken tub



roll-in or wet area shower

3-way bathing space featuring tub, seated shower and wet area shower

tub with integral fold-down seat

A

B

dual height lavatory

wireless telephone link to doorbell-intercom

contrasting treads and risers

C

F

E

D

C

B

A

F

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