

ADA IN A NUTSHELL

THE "TAKEAWAY" FOR MANAGERS™

ADA in a Nutshell — the "TAKEAWAY" for Managers Leader's Guide

Overview:

The four areas covered in *ADA in a Nutshell — the "TAKEAWAY" for Managers™*—What Counts As a Disability?; Reasonable Accommodation, the ADA at Work; More Than a Disability; and ADA Compliance and Documentation—are reinforced by four corresponding “takeaways,” information that’s especially important to come away with, summed up in an easy-to-remember sentence.

These four areas and their takeaways comprise the basic information that all managers and supervisors should have regarding the Americans with Disabilities Act, and ADA compliance. *ADA in a Nutshell — the "TAKEAWAY" for Managers™* conveys the spirit of ADA legislation, as well as focusing on how to comply with the law, so that managers can feel confident in providing more opportunity for employment to more qualified people, regardless of disability.

Prepare for the Session:

- Preview the *ADA in a Nutshell — the "TAKEAWAY" for Managers™* program, and consider how the four topics relate to each other in the workplace.
- Read through the Leader's Guide.
- Make sure you have a Discussion Question handout for each participant.
- When discussing complex issues such as ADA compliance, remember to reassure participants that they don't need to be legal experts to grasp the material.
- Greet participants in a friendly manner.

Open the Session:

- Introduce yourself and welcome the participants to the training session.
- Introduce the *ADA in a Nutshell — the "TAKEAWAY" for Managers™* program, explaining that it covers *four key areas*: What Counts As a Disability?; Reasonable Accommodation, the ADA at Work; More Than a Disability; and ADA Compliance and Documentation.
- Ask participants as they watch the program to think about why these areas are important for managers to understand.
- Let participants know that there will be a short discussion portion of the program, with an opportunity to comment and/or ask questions.
- Show the *ADA in a Nutshell — the "TAKEAWAY" for Managers™* program (running time: 9 minutes).
- Review the four topics and their corresponding takeaways as follows:

What Counts As a Disability? (*A disability is a physical or mental impairment that limits one or more life activities.*); Reasonable Accommodation, the ADA at Work (*A small change can be a big help.*); More Than a Disability (*Focus on the person, not the disability.*); and ADA Compliance and Documentation (*Keep good records.*)

Present the Material:

Topic 1: What Counts As a Disability?

Learning Points:

- ❖ Legally, a disability is present “when a physical or mental impairment physically limits one or more major life activities.”
- ❖ A covered disability may come and go (as with a disease in remission), and it doesn’t have to be immediately apparent to others.
- ❖ The legal definition of “disability” *doesn’t* include temporary, minor conditions like a cold.

The “TAKEAWAY”: *A disability is a physical or mental impairment that limits one or more life activities.*

Topic 2: Reasonable Accommodation, the ADA at Work

Learning Points:

- ❖ The ADA requires employers to provide “reasonable accommodation,” that is, a reasonable adjustment or change in the way things are usually done, so that people with disabilities can apply for a job, or carry out the essential functions of the one they have.
- ❖ If providing accommodation would cause undue hardship to the employer because it is too difficult or expensive, the employer may decline to provide it.
- ❖ If an employee claims a disability that’s not readily apparent, and asks for an accommodation, an employer can request that the employee provide information from his or her doctor to see if the impairment is covered by the ADA, and if so, what kind of accommodation would be helpful.

The “TAKEAWAY”: *A small change can be a big help.*

Topic 3: More Than a Disability

Learning Points:

- ❖ People with disabilities have interests, skills, etc., that have nothing to do with being disabled.
- ❖ Disabled people have the same rights and responsibilities as everybody else during the hiring process, training and promotion decisions, and any disciplinary action.
- ❖ Managers should treat disabled, and all, employees respectfully, focusing on commonalities rather than differences.

The “TAKEAWAY”: *Focus on the person, not the disability.*

Topic 4: ADA Compliance and Documentation

Learning Points:

- ❖ If you're uncertain about how to handle a particular situation with a disabled applicant or employee, or the person invokes the ADA, say that you need to look into the appropriate way to proceed, and then check with HR.
- ❖ Write down requests for and implementation of any accommodation, and whether the accommodation was successful. Document submitted medical information, whether the employee's needs should be considered reasonable or an undue hardship for the organization, and why.
- ❖ Your records should be specific, noting dates and times—and professional, focusing on the employee's ability to perform the essential functions of the job.

The “TAKEAWAY”: *Keep good records.*

Start Discussion:

- Distribute the Discussion Questions handout.
- Read the 4 questions on the Discussion Questions handout to participants, and explain that they will have 5–8 minutes for discussion based on the questions.
- Ask participants to take the handout Quiz.
- Have participants form small groups of 3–5 people for the discussion portion of the training.

Discussion Questions:

Do you think you would feel differently toward a disabled job applicant or employee than you would toward someone who was not disabled? Why?

Sample answers:

1. *"I would be worried that they couldn't do the job as well."*
2. *"I don't think it would bother me."*
3. *"I have a disability, but I might still worry about the person's ability to do the job if they had a different disability than I have."*

What might be a practical consequence of this feeling?

Sample answers:

1. *"I might not hire the person. But I guess if they were actually qualified for the job, I could be sued if I didn't."*
2. *"I think I'd treat everyone the same."*
3. *"I would need to remind myself that I want to be seen as a whole person, not just my disability, and so do they."*

Can you think of a simple accommodation an employer might make for someone with a disability?

Sample answers:

1. *“Putting in a wheelchair ramp.”*
2. *“Letting them bring their service dog to work.”*
3. *“Allowing someone to have flexible hours so they could make their doctor’s appointments.”*

If someone asked you for an ADA accommodation but you couldn’t see that the person had a qualifying disability, what would you do?

Sample answers:

1. *“I’d tell the person they weren’t qualified.”*
2. *“I’d check with HR about how to proceed.”*
3. *“I would tell them to bring in a doctor’s note describing the disability and recommending a specific accommodation.”*

Quiz Answer Key

1. People who wear glasses are disabled, but people who wear contacts are not.
TRUE/FALSE
2. Accommodations for disabled employees are sometimes very small.
TRUE/FALSE
3. It's important to document instances of ADA accommodation.
TRUE/FALSE
4. The ADA requires employers to give preference to people with disabilities when hiring and promoting.
TRUE/FALSE
5. It's important to recognize that a disabled person is more than his or her disability.
TRUE/FALSE
6. Both organizations and managers can be legally liable for violating the ADA.
TRUE/FALSE
7. The ADA applies to all areas of employment, from hiring to firing.
TRUE/FALSE
8. Good documentation includes your opinions as well as the facts.
TRUE/FALSE
9. A condition such as epilepsy is not considered a disability because its symptoms aren't always present.
TRUE/FALSE
10. An employer must provide an accommodation for a disabled employee even if the expense would cause an undue hardship.
TRUE/FALSE

Conclude the Session:

1. Reassemble the group.
2. Recap the following key concepts from *ADA in a Nutshell — the "TAKEAWAY" for Managers™*:
 - **A disability is a physical or mental impairment that limits one or more life activities.**
 - **A small change can be a big help.**
 - **Focus on the person, not the disability.**
 - **Keep good records.**
3. Remind participants that helping a qualified employee with a disability to find reasonable accommodation so that he or she can excel at the job, can be a rewarding experience.
4. Take questions.
5. Thank everyone for participating, and express your hope that participants will take what they've learned at the session and work to help their organization to be inclusive and legally compliant.

ADA in a Nutshell — the "TAKEAWAY" for Managers™
Handout

Discussion Questions

Do you think you would feel differently toward a disabled job applicant or employee than you would toward someone who was not disabled? Why?

What might be a practical consequence of this feeling?

Can you think of a simple accommodation an employer might make for someone with a disability?

If someone asked you for an accommodation but you couldn't see that the person had a qualifying disability, what would you do?

Quiz

1. People who wear glasses are disabled, but people who wear contacts are not.
TRUE/FALSE
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ADA in a Nutshell — the "TAKEAWAY" for Managers™ Transcript

The ADA is an important piece of legislation that can be intimidating for managers. But to maintain a respectful, inclusive workplace, and protect your organization—and yourself—from lawsuits, you need to know the basics. So here they are in a nutshell.

The ADA, or Americans with Disabilities Act, along with the ADAA, which expanded it, is meant to prevent discrimination against the millions of people with disabilities in the United States in all areas of employment—from hiring to pay, from training to promotion, and from benefits to termination.

The ADA doesn't give people with disabilities *preference* in the workplace, it just means that qualified people, whether or not they have a disability, should be treated with respect, have equal opportunity to contribute their skills, and if necessary, be provided with reasonable accommodation so that they can apply for or do the job.

There are four basic areas managers need to know about to effectively implement the ADA and remain legally compliant.

- ***What Counts As a Disability?***
- ***Reasonable Accommodation, the ADA at Work***
- ***More Than a Disability***
- ***ADA Compliance and Documentation***

Just what counts as a disability?

What Counts As a Disability?

According to the law, a disability is present “when a physical or mental impairment physically limits one or more major life activity,” those things most of us take for granted like walking, seeing, communicating, even breathing, as well as a host of others.

“THE CUSTOMERS LOVE YOU, JILL.”

“THANKS, ADAM, THAT’S REALLY NICE TO HEAR!”

“THEY TELL ME WHENEVER THERE’S A PROBLEM, YOU’RE THE ONE TO CALL.”

“WELL, PROBLEM-SOLVING IS MY FAVORITE PART OF THE JOB. I ENJOY A CHALLENGE.”

“I REALLY LIKE MY JOB—AND I’M GOOD AT IT. MY DISABILITY DOESN’T HAVE ANY AFFECT ON MY JOB PERFORMANCE. I’M GLAD ADAM RECOGNIZES THAT. I’M LUCKY TO HAVE A SUPERVISOR LIKE HIM.”

A covered disability doesn’t have to be continually present, but may come and go (as with a disease in remission), and it doesn’t have to be immediately apparent to others.

The legal definition of “disability” *doesn’t* include temporary, minor conditions like a cold, or a broken leg. And people who wear ordinary glasses or contact lenses are *not* considered disabled.

What Counts As a Disability?

THE TAKEAWAY

“A disability is a physical or mental impairment that limits one or more life activities.”

If you have a job applicant or employee whose disability presents a challenge, what should you do? Let’s talk about *reasonable accommodation, the ADA at work.*

Reasonable Accommodation, the ADA at Work

Employers are required by the ADA to provide “reasonable accommodation,” that is, a reasonable adjustment or change in the way things are usually done, so that people with disabilities can apply for a job, or carry out the essential functions of the one they have—*unless* it would be so expensive or problematic that it would cause undue hardship to the employer.

Reasonable accommodation is an empathetic response to someone's needs, like the adjustment of an employee's working hours to accommodate his or her physical therapy appointments, or the provision of special reading equipment for someone who's visually impaired. It can be as simple as raising a desk a few inches to accommodate someone's wheelchair.

"MARK, I'M GLAD I RAN INTO YOU. I HAVE YOUR PARKING TAG, FOR THE SPACE NEAR THE DOOR."

THANKS, DAVE, THAT'S GREAT. I REALLY APPRECIATE IT."

"NO PROBLEM."

"SORRY I WAS LATE YESTERDAY. I HAD TO PARK AT THE BACK OF THE LOT, AND IT TOOK ME A WHILE TO WALK TO THE BUILDING."

"WELL THIS SHOULD HELP."

"EVERY SO OFTEN, THE PARKING LOT HERE FILLS UP EARLY. THEN I HAVE TO PARK FAR FROM THE DOOR, AND SO I'M A LITTLE LATE GETTING IN. BUT NOW I DON'T HAVE TO WORRY ABOUT THAT ANYMORE."

The idea behind the law is that often, sometimes with a little extra help on the part of the employer, otherwise qualified people with physical or mental limitations are more than capable of performing the essential functions of a job, and making a valuable contribution.

If an employee claims a disability that's not readily apparent, and asks for an accommodation, an employer can request that the employee provide information from his or her doctor to see if the impairment is covered by the ADA, and if so, what kind of accommodation would be helpful.

Reasonable Accommodation, the ADA at Work

THE TAKEAWAY ***A small change can be a big help.***

Everyone deserves respect in the workplace. Disabled people are *more than a disability*.

More Than a Disability

People with disabilities have interests, skills, etc., that have nothing to do with being disabled. They have the same rights and responsibilities as everybody else during the hiring process, training and promotion decisions, and any disciplinary action.

Managers should treat disabled, and all, employees respectfully, focusing on commonalities rather than differences.

“YOUR IDEA TO COMBINE THE TWO ACCOUNTS WAS RIGHT ON THE MONEY. I’D BEEN THINKING THE SAME THING.”

“GREAT MINDS . . .”

“LET’S GET TOGETHER LATER AND SEE IF WE CAN CONSOLIDATE A FEW MORE OF THEM.”

“YEAH, SURE, I THINK THAT’S DOABLE. HOW ABOUT GOING OVER IT THIS AFTERNOON?”

“PERFECT.”

“MARK AND I ARE ALWAYS ON THE SAME WAVELENGTH. WE BOTH LIKE EFFICIENCY AND ENJOY TWEAKING THINGS TILL WE GET THEM RIGHT.”

And remember to respect people’s privacy. Don’t discuss others’ disability or medical status. Try to put yourself in the other person’s shoes, and always behave in a professional manner.

More Than a Disability

THE TAKEAWAY

Focus on the person, not the disability.

In most situations, managers who appreciate the spirit of the law, are respectful and compassionate toward others, and make a goodwill effort to accommodate others' needs, *will* be in compliance with the ADA, even if they haven't memorized every nuance of the law.

But if a disabled employee feels that he or she has been discriminated against and can't resolve the issue, the situation may escalate into a lawsuit for the organization, and for you. And proving your case in court will depend on your *ADA compliance and documentation*.

ADA Compliance and Documentation

If you're uncertain about how to handle a particular situation with a disabled applicant or employee, or the person invokes the ADA, say that you need to look into the appropriate way to proceed, and then check with HR. This will help ensure that you're in compliance with the law.

"LOOK, I CAN'T DO THAT WITH MY CONDITION. IT'S BAD FOR MY HEALTH. HAVE CARL DO IT."

"WELL PHIL, IT NEVER USED TO BE A PROBLEM. BEFORE I MAKE AN ACCOMMODATION FOR YOU, WE MIGHT NEED DOCUMENTATION FROM YOUR DOCTOR. I'M GOING TO CHECK WITH HR ABOUT HOW TO PROCEED."

"I REALLY CAN'T SEE THAT THERE'S ANYTHING WRONG WITH PHIL, OTHER THAN TRYING TO AVOID DOING THINGS HE FINDS BORING, BUT YOU NEVER KNOW. I'M GOING TO MEET WITH HR TO SEE WHERE WE GO FROM HERE. IN THE MEANTIME, I'M CAREFULLY DOCUMENTING EVERYTHING!"

Always keep records. Write down requests for and implementation of any accommodation, and whether the accommodation was successful. Document submitted medical information, whether the employee's needs should be considered reasonable or an undue hardship for the organization, and why. Your records should be specific, noting dates and times—and professional, focusing on the employee's ability to perform the essential functions of the job.

ADA Compliance and Documentation

THE TAKEAWAY ***Keep good records.***

As an effective manager, you should know the definition of a disability; offer reasonable accommodation to qualified people; remember to see someone as more than their disability; and keep good records. Keep the inclusive spirit of the ADA in mind, and treat everyone with empathy and respect.

Successfully helping a qualified employee with a disability to find reasonable accommodation, so that he or she can excel at the job, can be a truly rewarding experience.

PREVIEW