



# ADA and Covid-19: Lessons Learned and Moving Forward

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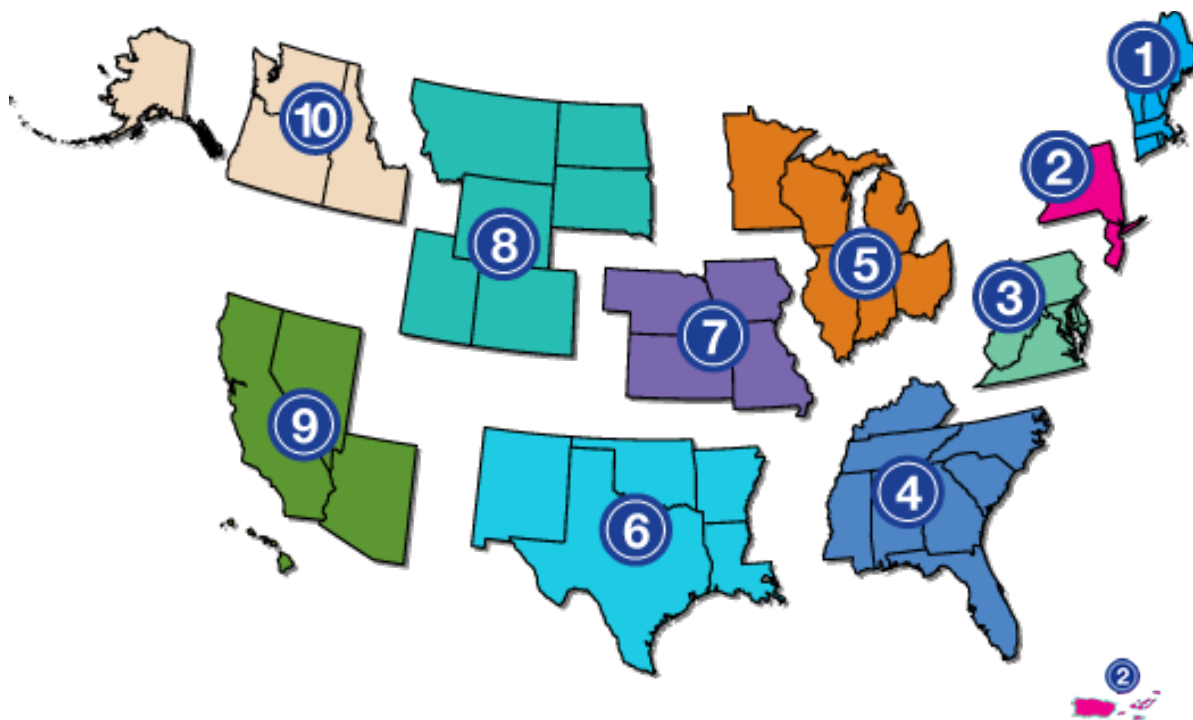
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# The ADA National Network

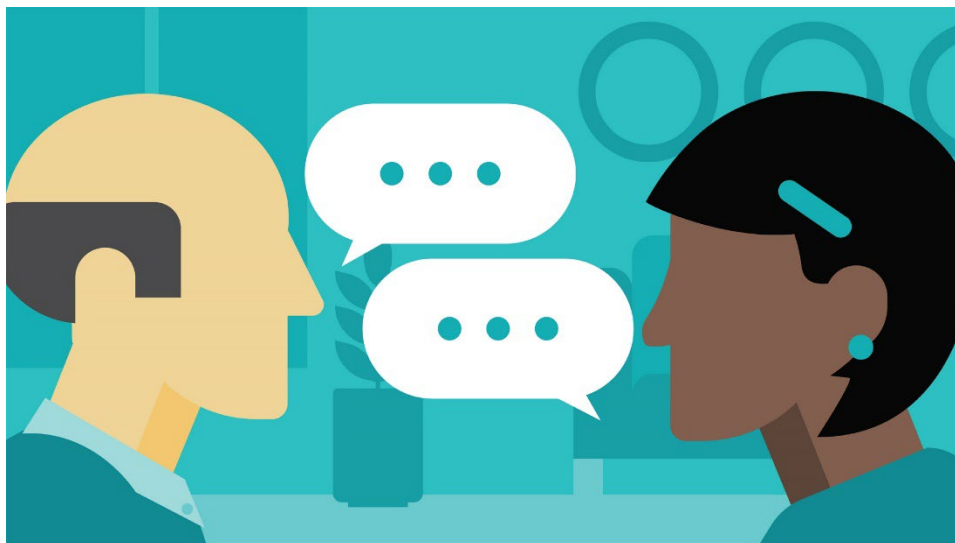
The ADA National Network consists of 10 Regional ADA Centers.

- 800-949-4232
- [www.adata.org](http://www.adata.org)



# COMMUNICATION

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# Communication Scenario: Customer

Masks/face coverings are required to be worn under a state mandate. A customer and a grocery store cashier are both wearing masks, but the **customer is hard of hearing** and struggling to communicate as they are unable to read the cashier's lip.



# Question #1

**What could the grocery store do when the CUSTOMER asks for assistance to improve communication?**

- A. Provide all employees with masks with a clear window over the mouth, allowing the mouth to be visible and worn when needed.
  - B. Require all cashiers to always wear masks that have a clear window over the mouth, allowing the mouth to be visible.
  - C. Set up each cashier station with plexiglass allowing the cashier to take off their mask briefly when needed to improve communication.
  - D. Any combination of the above could be a way to improve communication with the customer.
- **D. Any combination of the above could be a way to improve communication with the customer.**

# Communication Scenario: Employee

Masks/face coverings are required to be worn under a state mandate. A customer and a grocery store cashier are both wearing masks, but the **employee is hard of hearing** and is struggling to communicate as they are unable to read the customer's lip.



## Question #2

**What could the grocery store do when the EMPLOYEE asks for reasonable accommodation to improve communication with customers?**

- A. Provide and require all customers to always wear masks that have a clear window over the mouth, allowing the mouth to be visible.
- B. Set up the employee's cashier station with a box of masks that have a clear window over the mouth, allowing the mouth to be visible, that the employee can provide to customers in their lane.
- C. Provide the employee with a dry erase board to give to customers and prompt them to write out their questions.
- D. Both B and C.

➤ **D. Both B and C.**

# Communication Scenario: Website

COVID-19 vaccine finally became available and there was a priority for older persons and individuals at high risk. An individual in this high priority group was assigned a date and time for vaccination through the vaccination website but there was no contact method to find out about physical access to the site and/or how to request a reasonable modification. The caregiver/family member worried about physical access to the site and communication access but could not find out any information on the scheduling website.





## Question #3

**What would have been the best language to use on this vaccination website?**

- A. The vaccination site is wheelchair accessible.
  - B. For more information, contact 1-800-123-4567.
  - C. The vaccination site is wheelchair accessible. For more information about access and to request a reasonable modification, contact our store manager at 1-800-987-6543.
  - D. To learn more about your appointment, contact our office at 1-800-123-4567.
  - E. To request a reasonable modification to gain access to the vaccination process, contact our store manager at 1-800-987-6543.
- **C. The vaccination site is wheelchair accessible. For more information about access and to request a reasonable modification, contact our store manager at 1-800-987-6543.**

# Communication Scenario: Virtual Meetings

Public meetings for a particular city used to only meet in person but transitioned to hosting public meetings only virtually due to the pandemic. The city listed only the date, time, and zoom link to these monthly public meetings on their website. Residents that are deaf or hard of hearing who want to participate don't know whom to contact to request an American Sign Language (ASL) interpreter and closed captioning (CC).

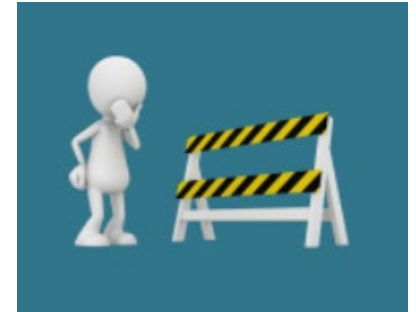


## Question #4

**What would have been a better approach for this city, a Title II entity?**

- A. Use the AI captioning within zoom for all public meetings and share this information and contact information on the website.
  - B. List contact information to request reasonable modifications for public zoom meetings.
  - C. Both A and B.
- **C. Both A and B.**

# Overview of Communication Barriers



- Effect of mask and face coverings on effective communication with deaf or hard of hearing and processing disorders, the masks in themselves became a barrier and sometimes plexiglass.
- Inaccessible websites/technologies were present prior to the pandemic and became critical issues especially related to accessing vaccination appointments.
- Virtual Meetings (group or 1-on-1) and Training (employment, business, education).

# Positive Pandemic Outcomes: Communication

- People were forced to look at how to communicate with individuals with hearing impairments.
- As a result, patrons who are hard of hearing have been able to benefit from masks that allow seeing lips.
- Website access has improved mainly through public and private settlement agreements with organizations like:
  - Kroger
  - Rite Aid
  - Hy-Vee Super Mart chain
  - CVS
- Additionally, in March of this year, the DOJ published guidance on Web accessibility and the ADA.





# Moving Forward & Improving Communication 1 of 2

- Do you have a process for requesting auxiliary aids & services?
  - Is it clear?
  - Can members of the public find it easily?
- Consult with the person with a disability to discuss what aid or service is appropriate **and effective**.
  - Title II entities must give primary consideration to the request of the individual.
- Consider the nature, length, complexity, and context of the communication and the person's normal method(s) of communication.





# Moving Forward & Improving Communication 2 of 2

- Provide comprehensive and ongoing staff training.
  - Do your staff know how to interact with people with a communication disability?
  - Are your staff equipped to provide aides and services?
  - Do you know how to obtain interpreters and caption videos?
- Ensure web content (websites, apps, kiosks, etc.) is accessible.



**Special Note:** Department of Justice (DOJ) intends to publish a Notice of Proposed Rulemaking (NPRM) to amend its Title II ADA regulation to provide technical standards to assist public entities in complying with their existing obligations to make their websites accessible to individuals with disabilities.





# EMPLOYMENT

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# Employment Scenario: Accommodation

During the first year of the pandemic, much of America transitioned from working in an office to working from home. Marcus was one of those employees who was provided a sit/standing desk in his office cubicle to accommodate his back impairment. Marcus requested that this sit/standing desk be moved to his apartment during the time his employer is requiring employees to work from home.



## Question #5

**How should this employer handle this ADA accommodation request?**

- A. Grant the request and either move the existing sit/standing desk to the home or purchase a new sit/standing desk to be delivered to the home.
  - B. Deny the request because it poses an undue hardship.
  - C. Evaluate the accommodation needed in the home environment to determine what options are available.
  - D. Allow frequent breaks.
- **C. Evaluate the accommodation needed in the home environment to determine what options are available.**

# Employment Scenario: Family Members

An employee requests telework so they don't bring home the COVID-19 virus to a family member with a disability that lives with them. The employee states this family member's disability is lung-related and is at high risk of dying if they got COVID-19.



## Question #6

**Do employers have to provide reasonable accommodations to employees that live with a family member with a disability?**

- A. Yes, the ADA covers family members too.
  - B. No, ADA reasonable accommodations only apply to employees, not members of their family.
  - C. Discrimination against a person with caregiving responsibility may be unlawful under different Federal laws.
  - D. Both B and C.
- **D. Both B and C.**

# Employment Scenario: Back to the Office

Toward the end of the second year of the pandemic, employers began transitioning their employees from working in their homes back to the office. Katrina, an IT specialist, requested the ability to work from home prior to the pandemic but her request was denied. She provided documentation of her migraines stating working from home provides her the ability to control elements in the work environment such as noise and light levels that trigger or make a migraine worse. During the pandemic, her whole office worked from home and her performance evaluations were the best she has ever had. Katrina decides to request work from home again especially now that she has been able to demonstrate that she is more than capable of completing her IT responsibilities from home.



## Question #7

**Should the employer consider granting Katrina's reasonable accommodation request to work from home?**

- A. Yes, every request should be evaluated especially when the working environment or job has changed.
  - B. No, nothing has changed since denying the original request.
- **A. Yes, every request should be evaluated especially when the working environment or job has changed.**

# Employment Scenario: Documentation

A typical office worker has been experiencing long-lasting symptoms of COVID19 such as fatigue, difficulty thinking, and headaches for several weeks. The employee asked their supervisor to work from home and for a flexible schedule. Since it is not obvious this employee has Long-COVID, the employer requests medical documentation.



## Question #8

**What can the employer ask the medical documentation to describe?**

- A. Nature, severity, and duration of the impairment.
- B. Activity or activities that the impairment limits.
- C. Extent of the impairment limits the employee's ability to perform activities.
- D. Suggested accommodations.
- E. All the above.

➤ **E. All the above.**

# Definition of “Disability” Under the ADA

A person with a disability is someone who:

1. has a physical or mental impairment that substantially limits a major life activity;
2. has a record of such an impairment; or
3. is regarded as having such an impairment.



# Long-COVID as a Disability

## Examples of an Impairment that Substantially Limits a Major Life Activity for Individuals diagnosed with COVID-19:

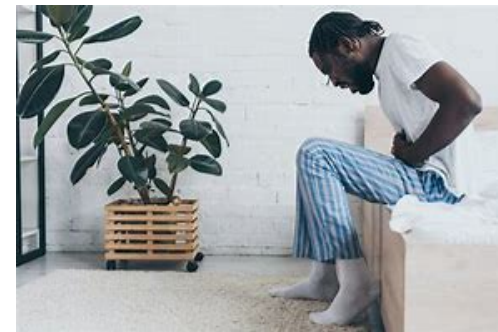
- Individual experiences ongoing but intermittent multiple-day headaches, dizziness, brain fog, and difficulty remembering or concentrating, which the employee's doctor attributes to the virus, is substantially limited in neurological and brain function, concentrating, and/or thinking, among other major life activities.
- Individual initially receives supplemental oxygen for breathing difficulties and has shortness of breath, associated fatigue, and other virus-related effects that last, or are expected to last, for several months, is substantially limited in respiratory function, and possibly major life activities involving exertion, such as walking.



# Long-COVID as a Disability Continued

## Examples of an Impairment that Substantially Limits a Major Life Activity for Individuals diagnosed with COVID-19:

- Individual experiences heart palpitations, chest pain, shortness of breath, and related effects due to the virus that lasts, or is expected to last, for several months. The individual is substantially limited in cardiovascular function and circulatory function, among others.
- Individual experiences intestinal pain, vomiting, and nausea that linger for many months, even if intermittently, is substantially limited in gastrointestinal function, among other major life activities, and therefore has an actual disability under the ADA.



# Employment Scenario: Vaccine

The health care clinic required all its' employees to be vaccinated with the approved COVID-19 vaccine. Eli has a severe allergy to one of the ingredients in the vaccine and asks for an exemption by providing a note from his doctor.



## Question #9

**Does the health care clinic, the employer, have to allow the exemption?**

- A. No, because this is a legitimate safety risk.
- B. Yes, however, will require Eli, the employee, to continue weekly COVID-19 testing.
- C. It depends.

➤ **B. Yes, however, will require Eli, the employee, to continue weekly COVID-19 testing.**

# High-Risk Medical Conditions

A person with certain medical conditions is more likely to have severe illness from COVID-19 resulting in:

- Hospitalization
- Needing intensive care
- Ventilation to help them breathe
- Death

These conditions include but are not limited to:

- Cancer
  - Chronic kidney disease
  - Chronic liver disease
  - Chronic lung diseases
  - Cystic fibrosis
  - Neurological conditions
  - Diabetes (Type 1 or 2)
  - Heart conditions
  - HIV infection
  - Immunocompromised state
  - Mental health conditions
  - Sickle cell disease or thalassemia
  - Substance use disorders
  - Tuberculosis
- People with some types of disabilities **MAY** be more likely to get very sick from COVID-19 because of underlying medical conditions, living in congregate settings, or systemic health and social inequities including ADHD, cerebral palsy, birth defects, intellectual and developmental disabilities, learning disabilities, spinal cord injuries, and down syndrome.

## Question #10



**Are people with these high-risk medical conditions covered under the ADA and entitled to reasonable accommodations?**

- A. Yes.
  - B. No, unless they get Long COVID-19.
  - C. Maybe, an individualized assessment would need to be conducted to decide.
- **C. Maybe, an individualized assessment would need to be conducted to decide.**

# Employment Scenario: High-Risk

An elementary school teacher has a documented weakened immune system due to cancer treatments making her more vulnerable to COVID. She is concerned because the school is lifting the mandatory masking policy. In response, the teacher requests that all students in her class continue to wear masks.



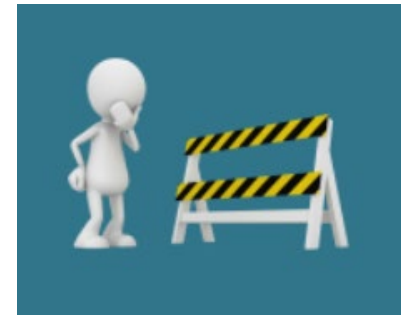
# Question #11

**Should the school grant this specific request?**

- A. Yes, the students are used to wearing masks.
  - B. No, because it would be too confusing for the students to know when to wear a mask and not to wear one.
  - C. Maybe, depending on the age of the students.
  - D. Not necessarily, should explore alternative accommodation(s) such as providing plexiglass barriers around the student's desks.
- **D. Not necessarily, should explore alternative accommodation(s).**

# Overview of Employment Barriers

- In 2020, health care providers were so overwhelmed with treating COVID-19 patients, and obtaining medical documentation became extremely hard.
- Some employees had a difficult time obtaining reasonable accommodations when working from home.
- Some employees were not allowed to continue to work from home once the employer started to bring people back to the workplace despite it NOT being an essential function of the job and the employee successfully completing work tasks for the past two years.
- Understanding Long COVID-19 and learning to apply the ADA reasonable accommodation process with this new disability.
- Some employees struggled to obtain an exemption to the COVID-19 vaccine due to severe allergies to ingredients in the vaccine.
- Employers struggled to understand high-risk medical conditions in the pandemic environment and figure out when and how to accommodate individuals with high-risk medical conditions.



# Positive Pandemic Outcomes: Employment

- Due to the pandemic, employers had to pivot and provide work from home. Now many people with disabilities can say it does work and they were productive, sometimes even more so.
- More employers are allowing hybrid work with a mixture of working from home and at the workplace allowing better work-life balance for all employees.





## Moving Forward & Improving Employment

- Do you have a standardized reasonable accommodation process and does everyone know it?
  - Train all employees on the ADA and your accommodation process.
  - Do your supervisors know how to recognize a request for reasonable accommodation?
- Appoint a knowledgeable person and/or department to be responsible for implementing & overseeing accommodation policies and procedures.
- This person/department should know how to:
  - Engage in the interactive process in a timely manner.
  - Request sufficient documentation and what is sufficient.
  - Determine if someone is covered under the ADA.
  - Identify the exact limitations resulting from the disability.
  - Determining potential reasonable accommodations.





# STATE AND LOCAL GOVERNMENT

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# Government Scenario: Public Rights of Way

A city implemented a practice during the COVID-19 pandemic to shut down areas of streets and sidewalks to extend outdoor dining areas for local restaurants. The city is considering making these practices permanent and wants to understand if there are any implications with the ADA. The city did provide temporary accessible routes to utilize the streets for pedestrian traffic.



## Question #12

**What should the city do to ensure that the public right-of-way remains accessible to persons with disabilities?**

- A. Nothing, leave it up to the businesses to make sure their goods and services are accessible.
  - B. The city should create rules/ordinances requiring that tables/furniture and other elements do not reduce the minimum width of accessible paths on sidewalks.
- **B. The city should create rules/ordinances requiring that tables/furniture and other elements do not reduce the minimum width of accessible paths on sidewalks.**

# Government Scenario: Face Cover/Mask Policy

A state park has a face mask policy for their indoor facilities such as an educational center or gift shop. A park employee is encountering members of the public that are refusing to wear masks due to a medical disability.



# Question #13

**To what extent can the park staff inquire about disability in this situation?**

- A. Ask if the person requires a modification to the policy to participate.
  - B. Require documentation of disability.
  - C. Ask questions about the disability.
  - D. Both B and C.
- 
- **A. Ask if the person requires a modification to the policy to participate.**

# Government Scenario: Modification

A voter that is blind requested assistance in locating the accessible voting booth/machine during the pandemic. Even though the voter and the county voting officials were both wearing face coverings the staff were reluctant to provide the requested assistance.



## Question #14

**What are the obligations of the county staff working at the polling location in this situation?**

- A. The ADA does not require providing this type of assistance.
- B. The ADA requires that the county ensure that the voting process is accessible to people with disabilities.
- C. The staff should discuss with the voter how best they can assist them.
- D. The staff should tell the person to come back with a friend/family member to provide assistance.
- E. Both B and C.

➤ **E. Both B and C.**

# Overview of Government Barriers



- Some sidewalks and streets were closed off to create additional dining space and no temporary accessible routes were provided.
- Public meetings were offered remotely but communication for deaf and hard-of-hearing was not always considered.
- Some government employees were unsure of how to handle face-covering/masking reasonable modification requests.
- Certain aspects of voting were inaccessible.

# Positive Pandemic Outcomes: Government

- Increase access to public meetings due to them being virtually rather than in-person. The question is will local government entities continue to provide a virtual option to support inclusion and enhance participation.
- Some voting locations not only offered curbside voting but also drive-through voting increasing access to people with mobility disabilities and those unable to wear masks. The question is will alternative methods of voting continue to be offered to allow more access to people with disabilities.





# Moving Forward & Improving Government

- Have you designated someone to be responsible for ADA-related issues (e.g., ADA Coordinator)?
  - Is this person knowledgeable about the ADA as well as alternative formats and technologies that enable people with disabilities to communicate, participate, and perform tasks?
  - Has this person been given sufficient authority to make decisions and to take action?
  - Is this person training staff on ADA matters?
  - Can the public find out who this person is easily?
- Are you making reasonable modifications to your policies, practices, and procedures to meet nondiscrimination requirements, and full and equal enjoyment to the extent possible?



# CONCLUSION

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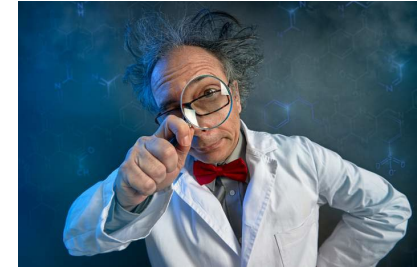


# Overall Observations



- People were forced to think about how to achieve things in a different manner and get the same result.
- Long standing barriers were exposed during this pandemic and entities were held accountable for access requirements.
- People who had not previously identified as a person with a disability, were forced to address limitations in different settings and their civil rights.
- Opportunities for participation increased as alternative methods of engagement were implemented (i.e., virtual platforms).
- New and improved technologies emerged increasing opportunities for access for people with disabilities to employment and education.
- New methods of achieving access in the built environment emerged building upon the basics of accessibility.

# Overall Observations Continued



- Pandemic made entities better understand the basics of the ADA and how to apply it.
- Very clear that employers, governments, and businesses need to do a better job educating employees on the ADA.
- Entities need to improve the methods and means by which they communicate information about how to request an accommodation or modification and implement processes to respond to requests in a timely manner.

# Lessons Learned



- Importance of in-person interaction
  - Increased reports of mental illness.
  - Reduced options for utilizing community supports (i.e., neighbors, friends, caregivers, etc.) .
- Inclusive design serves more people and makes good business sense:
  - Helps businesses stand out from their competitors, and
  - Helps employees be more successful in their job.
- The big question is: Will society carry these lessons learned forward?

# Questions?



# Contact Information

- Website: [www.adagreatlakes.org](http://www.adagreatlakes.org)
  - [Listserv Subscription](#)
  - [Great Lakes Chronicle Subscription](#)
- Request training: [webinars@adaconferences.org](mailto:webinars@adaconferences.org)
- TA: 800-949-4232 (V/TTY) or [adagreatlakes@uic.edu](mailto:adagreatlakes@uic.edu)
- 312-767-0377 (Video Phone)
- Free ADA Webinar Series: [www.adatatraining.org](http://www.adatatraining.org)
- Follow us on social media  
@ADAGreatLakes



# ADA National Network (ADANN) Resources



**ADA Coordinator Training Certification Program (ACTCP):** is a unique program designed to meet the training and professional needs of ADA Coordinators offered through the Great Plains ADA Center.

- [www.adacoordinator.org](http://www.adacoordinator.org)

## **ADANN ADA Publications**

- <https://adata.org/national-product-search?keys=&type=All&tid=All>

## **ADANN Effective Communication Fact Sheet**

- <https://adata.org/factsheet/communication>

## **ADANN Teleworking and the ADA Research Brief**

- [https://adata.org/research\\_brief/research-brief-teleworking-and-ada](https://adata.org/research_brief/research-brief-teleworking-and-ada)

# State & Local Government Resources



## **ADA Update: A Primer for State and Local Governments**

- [https://www.ada.gov/regs2010/titleII\\_2010/title\\_ii\\_primer.html](https://www.ada.gov/regs2010/titleII_2010/title_ii_primer.html)

## **ADA Best Practices Tool Kit for State and Local Governments**

- <https://www.ada.gov/pcatoolkit/toolkitmain.htm>

## **ADA Requirements: Effective Communication**

- <https://www.ada.gov/effective-comm.htm>

## **ADA Title II Action Guide for State and Local Governments**

- [www.adaactionguide.org/action-steps](http://www.adaactionguide.org/action-steps)

## **Department of Justice – State and Local Governments**

- <https://beta.ada.gov/topics/title-ii/>

# Web Accessibility Resources

## DOJ Guidance on Web Accessibility and the ADA

- <https://beta.ada.gov/web-guidance/>



## Section 508 Web Accessibility Standards

- [www.section508.gov](http://www.section508.gov)



## W3C Web Content Accessibility Guidelines

- [www.w3.org](http://www.w3.org)



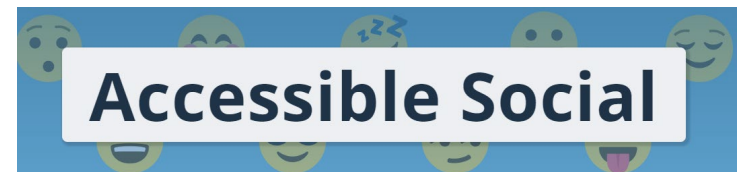
## Web Accessibility in Mind

- <http://Webaim.org>



## Accessible Social Media

- [www.accessible-social.com](http://www.accessible-social.com)



## Plain Language

- [www.plainlanguage.gov](http://www.plainlanguage.gov)



# ADA & Employment Resources 1 of 3

**U.S. Equal Employment Opportunity Commission (EEOC):**  
responsible for enforcing Title I of the ADA

- [www.eeoc.org](http://www.eeoc.org)
- [www.eeoc.gov/eeoc-disability-related-resources](http://www.eeoc.gov/eeoc-disability-related-resources)
- [What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws | U.S. Equal Employment Opportunity Commission \(eeoc.gov\)](http://www.eeoc.gov/eeoc/disability/2019/04/2019-04-01-what-you-should-know-about-covid-19-and-the-ada-the-rehabilitation-act-and-other-eEO-laws/)



**Disability:IN** is the leading nonprofit resource for business disability inclusion worldwide.

- <https://disabilityin.org>



**Department of Labor, Office of Disability Employment Policy (ODEP)** is the only non-regulatory federal agency that promotes policies and coordinates with employers and all levels of government to increase workplace success for people with disabilities.

- <https://www.dol.gov/odep/>



# ADA & Employment Resources 2 of 3

ODEP sponsors the following 5 policy development & technical assistance resources:

- 1. The Employer Assistance and Resource Network on Disability Inclusion (EARN)** offers information and resources to help employers recruit, hire, retain and advance people with disabilities; build inclusive workplace cultures; and meet diversity, equity, inclusion, and accessibility (DEIA) goals.

- <http://askearn.org/>



- 2. Job Accommodation Network (JAN)** is the leading source of free, expert, and confidential guidance on job accommodations and disability employment issues. JAN provides 1-on-1 practical guidance and technical assistance on job accommodation solutions to employers and employees.

- <http://askjan.org>
- <https://askjan.org/topics/COVID-19.cfm>



# ADA & Employment Resources 3 of 3

3. **National Center on Leadership for the Employment and Economic Advancement of People with Disabilities (LEAD Center)** delivers policy research and recommendations, technical assistance, and demonstration projects to promote inclusion and equity, and facilitate the adoption and integration of inclusive Workforce Innovation and Opportunity Act (WIOA) programs, policies, and practices.



- <https://leadcenter.org>

4. **Partnership on Employment & Accessible Technology (PEAT)** fosters collaborations in the technology space that build inclusive workplaces for people with disabilities.



- [www.peatworks.org](http://www.peatworks.org)

5. **Center for Advancing Policy on Employment for Youth (CAPE-Youth)** seeks to improve employment outcomes for youth and young adults with disabilities by helping states build capacity in their youth service delivery and workforce systems.



- <https://capeyouth.org>