

# Essential AND Functional: The Importance of Essential Job Functions for Disability Law Compliance and Inclusion



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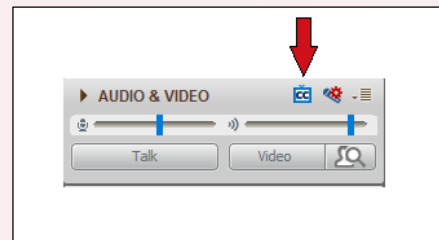
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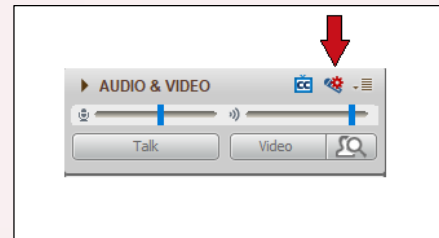
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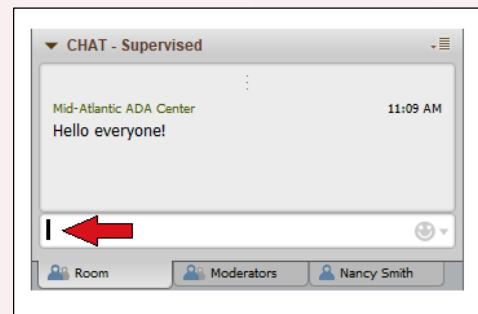
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## About Your Hosts...

- **TransCen, Inc.**
  - Improving the lives of people with disabilities through meaningful work and community inclusion
- **Mid-Atlantic ADA Center, a project of TransCen, Inc.**
  - Funded by National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR), Administration for Community Living, U.S. Department of Health and Human Services







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## **Essential AND Functional:** *The Importance of Essential Job Functions for Disability Law Compliance and Inclusion*

## Learning Objectives/Agenda

- Introduce ADA Title I employment provisions related to essential and marginal job functions (EJFs and MJFs)
- Understand the importance and utility of essential and marginal job functions (EJFs and MJFs) for your organization's disability law compliance and inclusion activities
- Discuss job analysis strategies for identifying job functions
- Evaluate common strategies for developing "ADA compliant" job descriptions

10



# An Overview of Essential Job Functions

11



## Qualified Individual

- Satisfies the skill, experience, education, and other job-related requirements
- Can perform the essential functions of the position with or without reasonable accommodation
- General rule: An employer is NOT required to hire or retain an individual who is not qualified to perform a job

## Essential Functions

- Fundamental job duties of the employment position
- Does not include marginal or peripheral functions
  - ALL functions  $\neq$  essential job functions
- Specifies what needs to be done, not how

## Example of Job Functions: Mail Clerk

- Essential (what) – The mail clerk must process incoming and outgoing mail for the company
- Marginal (what) – The mail clerk also provides back-up support to the office receptionist position when that person is on break, vacation, or out sick
- Preferred skills (how) – Complete tasks by managing priorities, self-motivating, and working well under deadlines

## Example of Job Functions: Firefighter

- Essential (what) - Respond to fire alarms, medical emergencies, hazardous materials, urban rescue and other calls to protect life and property
- Marginal (what) - Participate in fire station housekeeping
- Preferred skills (how) – Work under strict discipline, remain calm in hazardous, high-stress situations

## Quantifying EJFs

- Permissible under the ADA as long as they are **ACTUALLY** necessary and required for the position
- Actually imposed on employees
- Cannot adopt production levels that screen out or tend to screen out candidates with disabilities
- Example – Successfully complete 20 customer service calls per hour



## Functions are typically essential if...

- The position exists for performance of the function
- A limited number of employees can perform the function and it, therefore, can't be reassigned
- The function is specialized and requires certain expertise to perform it

## Evidence of Essential

- Employer's judgment
- Amount of time performing function
- If infrequently performed, serious consequences if not performed when needed
- Terms of collective bargaining agreement
- Other employees in same position
- Nature of the work operation or organizational structure
- Written job description

## Why Identify EJFs?

- Avoid inconsistent and unfair employment decisions
- Define positions
- Ensure the employees understand what's expected of them
- Help managers with performance management

## EJF Best Practice

- List the tasks of the positions and group tasks that are related into major function areas
- Put those major function areas in order of importance
- Determine the percent of time spent on each major function
- “Other duties as assigned” is not a job function
- Ask every candidate, “can you perform the essential functions of the position, with or without reasonable accommodation?”

# Job Requirements

21



## Three Categories of Requirements

- Summary of the position
- Essential Job Functions
- Job Specifications/Qualifications

## Summary of the Position

- Reason for or function of the position within the organization
- What purpose does it serve?
- What role does it fill?
- How does it fit in with the rest of the operations of the organization?
- Can also include a brief overview of your organization

## Examples – Position Summaries

- Firefighter – Respond to fire alarms, medical emergencies, hazardous materials, urban rescue and other calls to protect life and property; participates in fire prevention and training; and maintains the fire station and firefighting equipment.
- Car sales associate - sells automobiles at car dealerships and helps customers to find the right purchase for their needs.
- Carpenter - Responsible for designing, building, installing, and repairing structures, fixtures, furniture, and other items using different types of materials including wood and steel.



## Essential Job Functions

- May include performance standards that describe HOW EJFs must be completed
  - Process – methods, techniques, procedures and/or tools to complete the job
  - Time – how much time is allowed to perform a function
  - Quantity – how often a function is performed
  - Quality – how success is measured

## Examples - EJFs

- Mail Clerk - Ensuring proper labeling and packaging for outgoing post.
- Firefighter - Respond to fire alarms with assigned company; lay and connect hose; maintain pumping apparatus; hold nozzles and direct water streams; raise and climb ladders; ventilate burning structures; enter buildings to evacuate occupants.
- Car Sales Associate - Communicate with customers via email, telephone, and in person.
- Carpenter - Utilize chisels, planes, saws, drills, and sanders to repair and erect structures.

## Job Specifications

- Qualifications, skills, and abilities required to meet the job descriptions
- Educational criteria
- Necessary certification/licensure requirements
- Specialized knowledge or experience
- Environmental, psychological, and/or physiological requirements

## Examples – Job Specifications

- Mail Clerk - Proficiency with sorting machines.
- Firefighter – Successful completion of the Fire Academy.
- Car Sales Associate - Strong customer service and negotiation skills.
- Carpenter – May work in cramped spaces and be exposed to variable weather conditions.

# The Role of Job Analysis

29



## What is Job Analysis?

- Strategic planning tool and investigative process of gathering, examining, and interpreting data about a position's tasks and responsibilities
- Includes specifics about the work-site, workstation, and activities
- Results in detailed analysis of tasks and responsibilities, risks and hazards, functions and duties, tools and equipment to be used
- Identify expected output
- Evaluation of the JOB, not the PERSON doing the job

## Areas Typically Covered

- Mental/physical tasks involved
- How the job will be done including methods and equipment/tools
- Reason the job exists including job goals and how they relate to other positions
- Qualifications needed including training, knowledge, skills, and personality traits

## Activities Typically Involved

- Tracking an employee's duties
- Duration of each task
- Observing the employee performing his/her job
- Interviewing the employee, manager, and others who interact with the position
- Comparing the job to other jobs in the same department and job grade/family



## Ideal Outcome of an Analysis

- Thorough understanding of the EJFs
- List of all duties and responsibilities
- Percentage of time spent for each group of tasks
- Knowledge, skills, and abilities needed to perform the job
- Conditions under which the work is completed

## Analysis Best Practice

- Have employees complete job analysis forms
- Interview employees
- Obtain log sheets from employees
- Complete desk audits
- Interview supervisors/managers and other employees
- Compare the position to other positions in the department and other job grades/families

# Job Descriptions

35



## The Utility of Job Descriptions

- ADA does not require employers to develop or maintain job descriptions
- That being said, job descriptions help employers:
  - Identify candidates that can perform the tasks of a position
  - Determine salary ranges and levels or grades
  - Establish job titles
  - Create employees' job goals and objectives
  - Conduct effective performance evaluations
  - Defend against possible disability discrimination charges

## Job Description Basics

- Objective listing of the job title, tasks, and responsibilities involved in a job
- BROAD statement of purpose, scope, duties, and responsibilities
- Use clear, concise, non-technical language
- Avoid gender-specific language, jargon, technical language, proprietary names, and ambiguity
- Avoid language the screens out or tends to screen out individuals with disabilities

## “ADA Compliant” Language

Job Demand	“ADA Compliant” Words
Stand or sit	Stationary position
Walk	Move or traverse
Use hands/fingers to handle or feel	Operate, activate, use, prepare, inspect, detect, position
Climb	Ascend/descend, traverse
Stoop, kneel, crouch, or crawl	Position self (to), move
Talk/hear	Communicate, Convey, Express oneself, Exchange information
See	Detect, Perceive, Identify, Recognize, Observe, Inspect, Assess
Carry, lift	Transport, Move, Position, Put, Install

38



## Job Description Contents

- Job Title
- Location
- Department/section
- Supervisor information
- Objective
- Principal duties and responsibilities – use the terms essential and marginal functions
- Special working conditions
- Job specifications/qualifications

## Job Description Best Practice

- Keep your job descriptions up-to-date
- Use job descriptions to attract candidates, not weed out employees you don't want
- Distribute job descriptions to applicants and employees
- Maintain internal consistency
- Include disclaimer language about possible updates



# Resources

*Key organizations to visit with your questions*

41



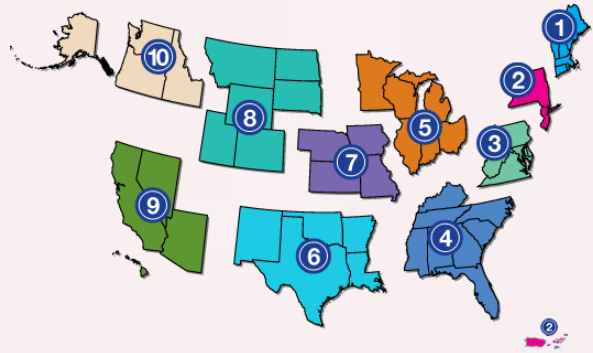
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## ADA National Network

- Ten regional centers provide guidance, training, and materials on the ADA
  - **1-800-949-4232**
  - **[www.ADAta.org](http://www.ADAta.org)**



## Key Organizations

- Equal Employment Opportunity Commission  
800/669-4000 (V) [www.eeoc.gov](http://www.eeoc.gov)
- Department of Labor's Office of Disability Employment Policy  
[www.dol.gov/odep/](http://www.dol.gov/odep/)
- Job Accommodation Network 800/526-7234 (V, TTY)  
[www.askjan.org](http://www.askjan.org)
- Cornell University Employment & Disability Institute  
[www.hrtips.org](http://www.hrtips.org)
- Society for Human Resource Management (SHRM)  
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# Thank You!



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