

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



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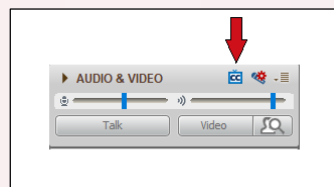
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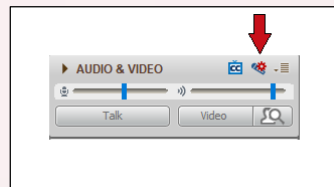
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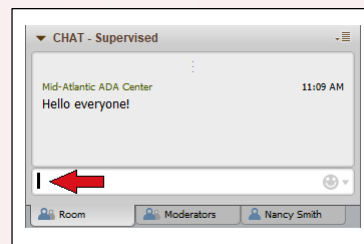
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Submitting Questions

- Webinar platform
 - Type and submit questions in the CHAT area text box
 - Your questions and comments will only be visible to session moderators
- Mobile device
 - CHAT area within the app
- Email
 - ADAtraining@transcen.org



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- CHAT box
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- Call 301-217-0124

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Archive

- This webinar is being recorded
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Certificates and Credits

- Certificates of participation or credits can only be given to those who submitted required payment along with registration for this session
 - **Listen for the CODE announced at the end of the session**
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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*

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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

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An Overview of Essential Job Functions

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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

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Essential Functions

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

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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

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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

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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

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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

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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

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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

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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?”

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Job Requirements

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Three Categories of Requirements

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

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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

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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.

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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

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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.

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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

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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.

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The Role of Job Analysis

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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

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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

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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

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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

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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

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Job Descriptions

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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

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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

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“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

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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

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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

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Resources

Key organizations to visit with your questions

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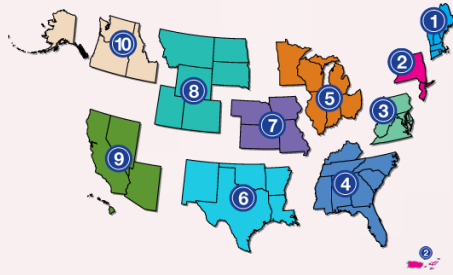
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ADA National Network

- Ten regional centers provide guidance, training, and materials on the ADA
 - **1-800-949-4232**
 - **www.ADAta.org**



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Key Organizations

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

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Thank You!



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