

UNDERSTANDING THE NEW AMERICANS WITH DISABILITIES ACT OF 1990 For SUPERVISORS

by

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COURSE OUTLINE

HIGHLIGHTED AREAS ARE NEW FOR 2018

34 page handout

- I. THE AMERICANS WITH DISABILITIES ACT OF 1990 OVERVIEW
 - A. Which Employers Are Covered By The ADA?
 - B. Discrimination and Harassment Prohibited
 - C. Burden Of Proof
- II. WHO IS DISABLED UNDER THE ADA AMENDMENTS ACT (ADAAA) of 2008 AND THE 2011 REGULATIONS?
 - A. Summary of the ADA's 2011 Regulations
 - B. ADA Is To Be "Broadly Construed"
 - C. Categorical Disabilities
- III. ESSENTIAL FUNCTIONS
 - A. Definition
 - B. Timely Attendance MAY NOT Be An Essential Function
 - C. Punctuality Is Not Necessarily an Essential Job Function
- IV. EMPLOYER DEFENSES
 - A. Employer Defense: Undue Hardship
 - B. Employer Defense: Employer Must Be Aware Of Disability
 - C. Employer Defense: Direct Threat To Others

D. Employer Defense: Direct Threat To Self

V. REASONABLE ACCOMMODATION

A. In General, What Is A “Reasonable Accommodation”?

B. What *More Specifically* Is A “Reasonable Accommodation”?

C. Requesting A Reasonable Accommodation: Employee ONLY Needs to Ask For An Adjustment Or Change Due To A Medical Condition

D. What Is NOT A Request For A Reasonable Accommodation?

E. No “Magic Words” Required

F. Request For FMLA Leave Could Likely Qualify As A Request For A Reasonable Accommodation Under The ADA?

G. The Accommodation Need Only Be “Reasonable” ... It Need Not Be The *BEST*

H. Employee Who Declines A Reasonable Accommodation Loses ADA Coverage

VI. LEAVE OF ABSENCE AS A REASONABLE ACCOMMODATION

A. Leave Of Absence *IS* A Reasonable Accommodation Consideration

B. Indefinite Leave of Absence Is *Not* A Reasonable Accommodation

C. Repeated Requests For Extended Leaves of Absence Under The ADA

D. Length Of Leave Of Absence

E. Rigidly Following A Leave Of Absence Policy Is A “Per Se” (“By Itself”) Violation Of The ADA

VII. “REASONABLE ACCOMMODATION” MUST BE TIMELY and EMPLOYERS CANNOT FORCE EMPLOYEES TO TAKE A LEAVE OF ABSENCE WHEN ANOTHER ACCOMMODATION IS AVAILABLE

VIII. ADA AND THE “INTERACTIVE PROCESS”

IX. MEDICAL INFORMATION AND EXAMINATIONS

A. "Return-To-Work" Or "Fit For Duty" Certificate Requirements

Notice: Legal Advice Disclaimer

The purpose of these materials is not to act as legal advice but is intended to provide human resource professionals and their managers with a general overview of some of the more important employment and labor laws affecting their departments. The facts of each instance vary to the point that such a brief overview could not possibly be used in place of the advice of legal counsel.

Also, every situation tends to be factually different depending on the circumstances involved, which requires a specific application of the law.

Additionally, employment and labor laws are in a constant state of change by way of either court decisions or the legislature.

Therefore, whenever such issues arise, the advice of an attorney should be sought.



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Business First's 20 People To Know In HR

CEO Magazine's 2008 Human Resources "Superstar"

Nationally Certified Emotional Intelligence Instructor

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Scott Warrick combines the areas of law and human resources to assist organizations in **"Solving Employee Problems BEFORE They Happen."** Scott uses his unique background of **LAW** and **HUMAN RESOURCES** to help organizations get where they want to go, which includes coaching and training managers and employees in his own unique, practical and entertaining style.

[Scott Trains Managers and Employees ON-SITE in over 50 topics](#)

LET SCOTT DESIGN A PROGRAM FOR YOU!

Scott's "[Employment Law Videos](#)" on the ADA, FMLA, FLSA and Harassment.

["The Human Resource Professional's Complete Guide To Federal Employment And Labor Law"](#) &

Scott's "[Do It Yourself HR Department](#)"

are favorites for anyone wanting to learn Employment Law and run an HR Department.

Scott's academic background and awards include:

Capital University College of Law (Class Valedictorian (1st out of 233))

Master of Labor & Human Resources and B.A. in Organizational Communication:
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The Human Resource Association of Central Ohio's Linda Kerns Award for Outstanding Creativity in the Field of HR Management and the Ohio State Human Resource Council's David Prize for Creativity in HR Management

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