



ABILITIES

Promoting the employment of Vermont citizens of all abilities

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Dear Friends ~ More about Accommodations and the ADA



On behalf of the Governor's Committee on the Employment of People with Disabilities, I would like to welcome you to the latest issue of "Abilities".

In our last issue we began our celebration of the twentieth anniversary of the enactment of the Americans with Disabilities Act by addressing some of the myths associated with that statute. In this issue, we will debunk another of the myths about what it means for employers when hiring an individual with a disability. We're also pleased to showcase IBM's practices for accommodating its workers with disabilities.

Finally, last year amendments to the ADA were passed. While we await publication of the final rules for implementing these amendments, we would like to take this opportunity to update you on some of the changes these amendments are bringing about.

Thanks for reading on!

Best regards,

Fred Jones, Chair

Governor's Committee on Employment of People with Disabilities

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A second concern and misunderstanding about the ADA is that it forces employers to hire an unqualified worker who has a disability.

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Making your Workplace Accessible: What has IBM done for People with Disabilities

By Sam Sepah, *Human Resources Partner, IBM, and member of the GCEPD*



Sam Sepah

In 2008, I, as a profoundly deaf individual, was hired to become a Human Resources Partner for the IBM Corporation in Essex Junction, Vermont. My responsibilities include working closely with IBM's executive teams to proactively address business and personnel issues and serve as a diversity representative for the Vermont HR Team to promote a more diverse workforce at IBM's Vermont location.

Thus, my story illustrates how IBM successfully creates an accessible workplace.

[click here to read more](#)

Upcoming Changes to the Americans with Disabilities Act - Story Synopsis

On January 1, 2009, the Americans with Disabilities Amendment Act (ADAA) of 2008 went into effect. Congress passed this law to reinstate the broad scope of protection against discrimination which had been the intent of the original act when passed 20 years ago. Unfortunately, over the years, the courts had interpreted the definition of a disability under the ADA so narrowly that few individuals met the criteria for coverage.

Congress is now working on completing the final regulations which will guide compliance efforts. While we wait for these to be published, we wish to share with you the changes that have been made and are now in effect.

[click here to read more](#)

MORE ON Myth #2 About the Americans with Disabilities Act

A common concern and misunderstanding about the ADA is that it forces employers to hire an unqualified individual with a disability.

However, according to the Job Accommodation Network (JAN), a service of the U.S. Department of Labor's Office of Disability Employment Policy, unqualified candidates are not protected under the ADA. To be protected from discrimination in hiring, an individual must first meet all requirements for a job and be able to perform its essential functions with or without reasonable accommodations.

For more information on myths, and to get the real facts, here is one helpful [website](#).

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MORE ON Sam Sepah's Story and IBM's Practices for Workplace Accessibility

Making your Workplace Accessible: What has IBM done for People with Disabilities, cont'.d

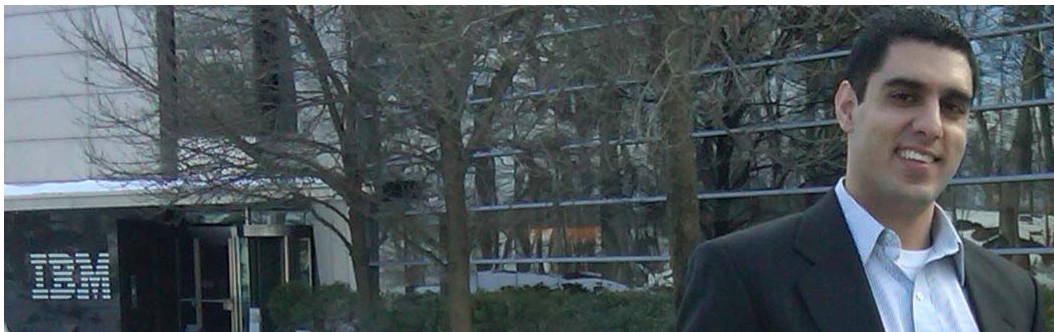
By Sam Sepah, *Human Resources Partner, IBM, and member of the GCEPD*

After President George H. W. Bush signed the Americans with Disabilities Act (ADA) into law on July 16, 1990, the American business community immediately wondered what it means to make their workplace more accessible for employees with disabilities. But beyond the pragmatic, employers also struggled to understand the larger perspective of how the ADA could benefit their business and why it should be a concern for them.

When the ADA was officially passed, IBM was already a few steps ahead of what was required by law. In fact, IBM has been supporting and innovating on behalf of people with disabilities for many years, a practice that has become a part of the company's culture. IBM hired its first employee with a disability in 1914, 76 years before the Americans with Disabilities Act became law. Over the years, IBM has continued to seek out new ways to support the competitive productivity of people with disabilities in the workplace by collaborating with local, national and international universities, government agencies and advocacy organizations, such as the National Business Disability Council.

Today, two decades after the signing of the ADA, IBM has received over 50 awards in recognition of its exemplary efforts to create an inclusive workplace for people with disabilities. In 2006, for example, the company was honored with the Title IV of the ADA Telecommunications Award by NYC Mayor Michael Bloomberg's Office for People with Disabilities for its commitment to increasing the accessibility of information technology. More recently, Diversity Inc selected IBM as the #1 employer for people with disabilities.

Thus, IBM has served as a role model to other corporations for how to create a better workplace for disabled employees: IBM strives to accept the differences of others, create an accessible workplace for everyone, and make sustained efforts to create a corporate culture that reflects the diverse workforce of the 21st century.



Sam Sepah at IBM Headquarters

Familiarize Yourself with the Differences of Others

As I was brought on board at IBM, I was immediately provided with two things that were key for communication and effective job performance: a sign language interpreter and a videophone. To smoothly communicate with management teams at various business meetings, my sign language interpreter is used. The interpreters were hired by IBM through a contracting service. The accommodation expense for hiring interpreters is covered by a central fund, which is known as 'the cost recovery'. The cost of using an interpreter is eventually charged back to the business unit, and is a win-win for the company, because it does not directly impact the department's operating budget. Having this separate fund allows hiring managers to keep cost issues out of their decision-making when determining whether or not they should hire a candidate

with a disability. It also helps managers to focus on evaluating and managing employees' performance without feeling burdened by paying their accommodation needs. This practice applies to all kinds of accommodation tools that are provided for disabled employees at IBM.

While I am not able to hear a phone ring, I use assistive technology to assist in communicating over the phone. Using a videophone (VP) device connected to the internet, along with a video relay service (VRS) such as Sorenson VRS, allows IBM employees and managers to contact me directly through a remote interpreter who translates the phone conversation on a video screen. The VP equipment and VRS expenses are sponsored by a communication vendor, such as Sorenson Communications, Inc, through the Federal Communications Commission (FCC). Colleagues and managers that are in need of contacting me immediately reach me through Lotus Sametime, an Instant Messaging application that IBM provides for most employees. Furthermore, something as simple as a dry-erase board also helps to enhance my face-to-face communication with team members. My colleagues in the human resources department at IBM have naturally adjusted their communication methods while working with me and other disabled employees.

Making Everything Work for Everyone

I am certainly not the only person with a disability working at IBM. People with disabilities working at IBM range anywhere from people with visual impairments, to persons with physical disabilities and developmental challenges. Creating an accessible workplace for this diverse group of IBM employees requires an ongoing commitment.

The company consistently checks internal and external resources to ensure its workplace is suitable for a diverse workforce. One such example is the design of IBM's corporate website and use of software to be user-friendly for everyone. Also, the facilities include ramps that are not only beneficial for employees with mobility challenges, but also for mothers with strollers and people with scooters. Moreover, to help employees work smoothly, IBM works with external vendors to ensure that all business requirements, including accessibility, are met and that necessary information or tools are already available before the employees need to use them as part of their jobs. Another example is establishing a lactation room to accommodate female employees. This room can also be used by employees with diabetes who need to take a break to take medications, which is an inexpensive and accommodating solution.

Understanding the Needs of the Future and Thinking Differently

Today, IBM believes that the impact of an accessible workplace is much broader, creating new opportunities for business to increase efficiency, boost productivity and reach out to the widest possible range of employees, clients and prospects. IBM strives to build a foundational philosophy: we accommodate

for any employee, regardless of whether they are disabled or not. We support our valued employees to succeed. The workplace accommodations clearly benefit people with disabilities, mature people, and veterans. IBM believes that creating a culture that is accepting and accessible for employees is a good business practice. Workers with disabilities have the skills IBM needs for business, while at the same time, its aging workforce--who have their own accommodation requirements--is growing.

Accommodating the workplace for employees is cost-effective. Accessible information technology is cheaper and readily supports a variety of employees, both at home and work. Having good accommodations in the workplace is attractive for anyone who seeks employment at IBM and enhances IBM's marketability to prospective employees. IBM has made their accommodations and accessibility for people with disabilities a priority not just domestically but also in various international offices. In doing so, IBM sends a powerful message to clients, stakeholders, shareholders and community members about its values in the workplace and the world.

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MORE ON the amendments to the Americans with Disabilities Act

(The following information was taken from a publication by the Job Accommodation Network (JAN) as part of its Accommodation and Compliance Series.)

The basic 3-part definition of a disability remains the same. With respect to an individual, a disability means:

- a) A physical or mental impairment that substantially limits one or more major life activities of such individual;
- b) A record of such impairment; or
- c) Being regarded as having such an impairment.

What has changed, however, is the meaning and application of some of the words within the definition, as follows:

- 1) The standard for whether an impairment "substantially limits" a major life activity is **now lower** than it was in the past. In other words, it is easier to prove that one is substantially limited by their impairment.
- 2) When considering whether a person's major life activity is substantially limited, one must disregard the beneficial effect of mitigating measures (except for ordinary eyeglasses and contact lenses) used by the individual. Such measures might include medication, medical supplies or equipment, prosthetics, hearing aids, assistive technology, etc.

For example, in the past the Supreme Court held that people with conditions such as diabetes, mental illness, and epilepsy who controlled their symptoms through medication and diet were not covered by the ADA. With the ADA of 2008, this holding by the Supreme Court has been rejected.

3) When assessing whether a person is substantially limited in a major life activity, it is enough for just one activity to be limited. Furthermore, the scope of major life activities has been expanded to include bodily functions. In the past there was some debate as to whether a medical condition that only affected **internal** functions would be covered. Now, however, the amendments specifically state that bodily functions are indeed major life activities, so that conditions such as gastrointestinal disorders, cancer, sleep disorders, and heart disease that often only affect the internal bodily functions without showing any outward limitations can be considered "impairments that limit a major life activity".

4) When considering whether a person whose condition is episodic or in remission is substantially limited in a major life activity, we look to the individual's limitations when their condition is in an active state.

and finally,

5) The "regarded as" component of the definition of a disability is to be interpreted very broadly; it does not require that individuals actually be substantially limited in a major life activity; but it also does not include "transitory *and* minor" impairments.

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Seeking Members for the GCEPD

The GCEPD is looking for individuals interested in applying for membership on the GCEPD. Members are appointed by the Governor to a three-year term and are selected to represent one of three groups: 1) the various disability communities; 2) the business community; and 3) providers of services to individuals with a disability.

If you are interested in applying, or in learning more about membership on the GCEPD, please contact Melita DeBellis, Executive Coordinator of the GCEPD, at melita@GCEPD.org, or telephone 802-434-6600.

Congratulations to our Gift Basket Winner

In May the GCEPD was an exhibitor at the Vermont Business & Industry Expo. Thanks to all of you who stopped by our booth, and a special congratulations to George Richard of SAFEGUARD, who won our raffled gift basket (provided courtesy of Green Mountain Coffee Roasters).

Thanks for reading this issue of "Abilities". We welcome your comments, feedback, and suggestions for future issues. Copies of past issues may be found on our website - www.hireus.org, or in the [Constant Contact archives](#).

Melita DeBellis,

Governor's Committee on Employment of People with Disabilities

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