

Updates from the Office of the Commissioner Representing Employers

Texas BusinessToday

Aaron S. Demerson
Commissioner Representing Employers

April 2022



Recognizing Bloom Consulting of Round Rock, TX
for efforts in hiring people with disabilities.

Dear Fellow Texans,

Welcome to your April issue of *Texas Business Today*! This month, we recognize National Autism Awareness Month, and celebrate the stories and lives of those living with Autism. Recently, we recognized a number of employers through our We Hire Ability employer recognition program. This program honors Texas employers whose workforce is comprised of more than 10% of people with disabilities and applauds them for their efforts to create an inclusive workforce. If

you are a Texas employer and think you might qualify, we want to recognize you! For more information, please visit: <https://twc.texas.gov/partners/WeHireAbility>

In addition, we recently hosted our first virtual Texas Conference for Employers. This event included over 500 excited Texas employers, who are continuing to improve the operations of their businesses. There will be more opportunities to attend these conferences in 2022. For the most up-to-date list of conferences, please visit: <https://twc.texas.gov/texas-conference-employers>.

As we continue throughout the year, our office remains committed to ensuring you have the best and most relevant information to assist you with successfully operating your business. Thank you for ALL you do.

Let's Continue to Make Progress!



Aaron Demerson
Commissioner Representing Employers
Texas Workforce Commission



Disability & the Workplace

By Jikku John, Legal Counsel to Commissioner Aaron Demerson

Today, over 61 million adults in the United States live with a disability.[i] Notwithstanding the strength of the U.S. labor market, research has found that individuals with disabilities are strikingly more underemployed compared to their counterparts. In 2018, while a staggering 75 percent of Americans without a disability (between 16 and 64) participated in the labor force, only 29 percent of individuals with a disability were able to participate.[ii] While many employers fear the added costs for accommodations when hiring individuals with disabilities, a recent study by the Job Accommodation Network (JAN) found that a vast majority of accommodations cost absolutely nothing, while a median one-time expenditure was \$500.[iii] If an employer has 15 or more employees, they fall under the umbrella of the Americans with Disabilities Act (ADA).

ADA - What Is It?

Enacted by Congress in the early 1990s, the ADA was a combined effort of millions of Americans who voiced their concern to ensure that individuals with disabilities are provided with equal employment opportunities at the workplace.

The ADA defines “disability” to mean a physical or mental impairment that substantially limits a major life activity. Although employers tend to interpret the ADA to affect all individuals with disabilities, the reach of the ADA extends to individuals with disabilities who are qualified to perform the essential functions of the position. i.e., individuals possessing the necessary skill, experience, education,

or other requirements, who can perform the job except for limitations caused by the disability.[iv]

Employers carry the duty to provide reasonable accommodations for employees with disabilities. The Equal Employment Opportunity Commission (EEOC) specifies that an individual does not need to mention the phrase “reasonable accommodation” or ADA when requesting an accommodation. Instead, employees, or applicants can use “plain English” when communicating their request for reasonable accommodations.[v] Specific examples for reasonable accommodation requests are found through the EEOC’s website.[vi] Helpful resources and guidance on matters relating to job accommodations are also found through JAN’s website.[vii]

ADA & the Hiring Process

From reduction in employee turnover rates to improving company morale, employers enjoy significant benefits when hiring individuals with disabilities. Numerous statistics have found that individuals with disabilities are likely to seek stable jobs, which in turn increases worker retention and lower training costs for employers. In addition, studies have also found that hiring individuals with disabilities, and providing for accommodations, lead to a work culture which improves overall company morale and reduces turnover rates.

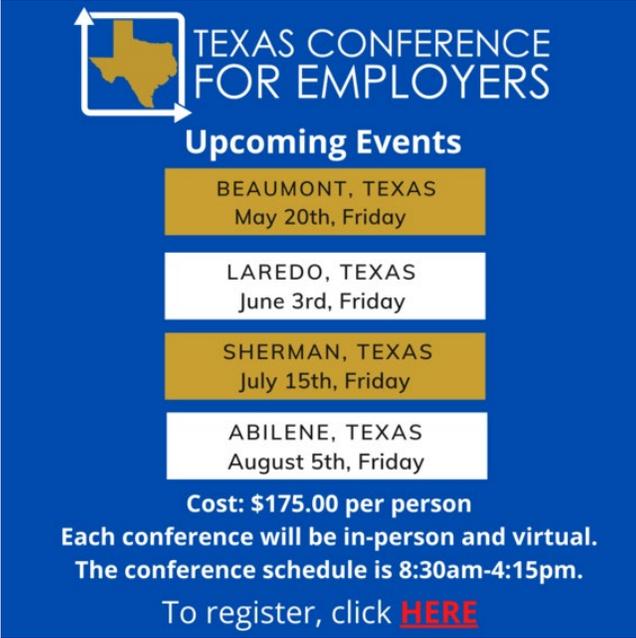


The ADA provides specific guidelines for employers when hiring individuals with disabilities. Although it may seem tempting, employers should not ask job applicants about a disability, or the nature of the disability. Examples of prohibited questions during the pre-offer period are found on the EEOC’s website.[viii]

In contrast, after the employer decides to make an offer of employment, the employer can ask questions that are likely to reveal the existence of a disability as long as the employer asks the same questions to other applicants that are offered the same type of job. Namely, employers should not ask such questions to only those who have obvious disabilities. In the same fashion, employers may require a medical examination after a job offer, as long as they require the same examination for other applicants who are offered the same type of job.[ix]

More information about the ADA and its impact in the hiring process can be found through the EEOC’s website, eoc.gov. Relevant information about the ADA could also be obtained through the EEOC Publications Distribution Center at: 1800-689-3362 (voice) or 1800-800-3302 (TTY).

- [i] [Disability Impacts All of Us Infographic | CDC.](#)
- [ii] [Getting to Equal: The Disability Inclusion Advantage | Accenture.](#)
- [iii] [Benefits and Costs of Accommodation \(askjan.org\).](#)
- [iv] [The ADA: Questions and Answers | U.S. Equal Employment Opportunity Commission \(eoc.gov\).](#)
- [v] [Employers' Practical Guide to Reasonable Accommodation Under the Americans with Disabilities Act \(ADA\) \(askjan.org\)](#)
- [vi] [Enforcement Guidance on Reasonable Accommodation and Undue Hardship under the ADA | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](#)
- [vii] [JAN - Job Accommodation Network \(askjan.org\)](#)
- [viii] [Job Applicants and the ADA | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](#)
- [ix] [What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws | U.S. Equal Employment Opportunity Commission \(eoc.gov\)](#)



The graphic features a blue background with a white outline of Texas in the top left corner. To the right of the map, the text 'TEXAS CONFERENCE FOR EMPLOYERS' is written in white, all-caps font. Below this, the heading 'Upcoming Events' is written in white. A list of four events follows, each in a separate box: 'BEAUMONT, TEXAS May 20th, Friday' (yellow background), 'LAREDO, TEXAS June 3rd, Friday' (white background), 'SHERMAN, TEXAS July 15th, Friday' (yellow background), and 'ABILENE, TEXAS August 5th, Friday' (white background). At the bottom, the text 'Cost: \$175.00 per person' is in white, followed by 'Each conference will be in-person and virtual. The conference schedule is 8:30am-4:15pm.' and 'To register, click [HERE](#)' where 'HERE' is in red.

TEXAS CONFERENCE FOR EMPLOYERS

Upcoming Events

- BEAUMONT, TEXAS
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Texas Business Today is a monthly update devoted to a variety of topics of interest to Texas employers. The views and analyses presented herein do not necessarily

represent the policies or the endorsement of the Texas Workforce Commission. Articles containing legal analyses or opinions are intended only as a discussion and overview of the topics presented. Such articles are not intended to be comprehensive legal analyses of every aspect of the topics discussed. Due to the general nature of the discussions provided, this information may not apply in each and every fact situation and should not be acted upon without specific legal advice based on the facts in a particular case.

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