

# UW-Green Bay

The Americans with Disabilities Act Amendment Act  
(ADAAA)

Presented by Disability Services and Human Resources on  
September 14, 2009 and October 2, 2009



# History and Background

- The Americans with Disabilities Act (ADA) was passed back in 1990.
- Defined disability as a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.

# History and Background

- In 1999, the Supreme Court began to narrow the definition of disability in several court cases.
- The Equal Employment Opportunity Commission defined “substantially limits” as “significantly restricts,” which was inconsistent with Congress’ intent when it passed the ADA.



# History and Background

- ❑ Congress intended the ADA to provide a clear and comprehensive mandate for the elimination of discrimination against individuals with disabilities.
- ❑ Congress expected the definition of disability to be interpreted consistently; that expectation has not been fulfilled.
- ❑ Supreme court decisions eliminated protection for many individuals Congress intended to protect.



# ADA Amendment Act Became Effective January 1, 2009

- As a result, the ADA Amendment Act (ADAAA) now provides:
- The definition of disability is construed in favor of broad coverage to the maximum extent permitted. In other words, employers (and educational disability coordinators) should not spend a lot of time determining if an employee is disabled. The evaluation does not demand extensive analysis.
- An employee or student is considered disabled even if they have taken mitigating measures (medication, use of devices, etc.). The only mitigating measures that can be considered are eyeglasses or contact lenses that fully correct vision.
- “Major life activities” has been expanded by adding concentration, thinking, communicating to name a few.

# ADA Amendment Act Became Effective January 1, 2009

- Conditions lasting less than six months are not considered disabilities EXCEPT a chronic or episodic condition lasting less than six months are considered a disability if they substantially limit major life activities when the condition is active.
- People who are regarded as disabled are not entitled to reasonable accommodations. Previously, courts had debated whether the ADA required having to accommodate a disability that didn't actually exist.

## Wisconsin Fair Employment Act (WFEA: Employers also subject to)

- ADA definition: A physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.
- WFEA definition: Real or perceived impairment that:
  - Makes (or is perceived to make) achievement unusually difficult, or
  - Limits (or is perceived to limit) the capacity to work.

## Wisconsin Fair Employment Act (WFEA: Employers also subject to)

- ❑ WFEA had easier standards to establish a disability. The changes enacted with the ADAAA now make the standards similar.
- ❑ Recent law enacted in Wisconsin on June 22, 2009, now provides that employees can seek compensatory and punitive damages.



## What do These Changes Mean for Faculty, Instructional Academic Staff and Supervisors?

- ❑ Extremely important that Disability Services or Human Resources be contacted if you receive a request for an accommodation that may be due to a real or perceived disability.
- ❑ Important that we follow policies and document any disability.
- ❑ Interactive process between instructor/student and supervisor/employee (with assistance from Disability Services and Human Resources) is critical.

# Policy and Procedures for Employees and Supervisors

- ❑ Employee initiates request for disability (unless obvious disability, supervisor may pursue)
- ❑ Human Resources obtains medical documentation and maintains records.
- ❑ If disabled, interactive process begins between employee and employer.
- ❑ First contacts in Human Resources:
  - Classified Employees: Amy Plotner, x2203
  - Unclassified Employees: Jenny Hanewall x2196
- ❑ Appeals made to Director of Human Resources or Vice Chancellor.

# Resources for Employees and Supervisors

- <http://www.uwgb.edu/hr/Policies/ADA/index.htm>
- <http://www.uwgb.edu/hr/Documents/AccommodationRequestForm.pdf>
- <http://www.uwgb.edu/hr/Documents/DocumentationOfDisabilityForm.pdf>



# Policy and Procedures for Students

- ❑ All students who request an academic accommodation should be referred to the Disability Services Office (Student Services Building, Room 1700; Phone: 465-2841; Email: [dis@uwgb.edu](mailto:dis@uwgb.edu))
- ❑ Students must provide written documentation of their disability from a qualifying professional that will be reviewed by the DS Coordinator.
- ❑ Accommodations must be reasonable and cannot alter the essential functions of the course.
- ❑ Student will deliver an Accommodation Form to each professor identifying accommodations.

# Policy and Procedures for Students

- ❑ DS Office can help facilitate accommodations by proctoring exams, hiring notetakers, acquiring books on audio etc...
- ❑ Faculty can decide to provide the accommodations by proctoring exam (testing accommodations); providing a copy of their class notes (notetaking accommodations) etc...
- ❑ Any questions or concerns about the accommodation(s) should be directed to the DS Coordinator especially before denying a student an accommodation.
- ❑ Student Appeals: Contact Greg Smith, ADA Coordinator at 465-2380 or [smithg@uwgb.edu](mailto:smithg@uwgb.edu)

# Policy and Procedures for Students

- Resources for Faculty:

<http://www.uwgb.edu/ds/teaching/index.asp>

- Resource for Students:

<http://www.uwgb.edu/ds/learning/index.asp>



# Questions?

