



Employment and the Americans with Disabilities Act

The Americans with Disabilities Act of 1990 (ADA) makes it unlawful to discriminate in employment against a qualified individual with a disability. The ADA also outlaws discrimination against individuals with disabilities in state and local government services, public accommodations, transportation and telecommunications.

Major Employment Provisions

The ADA requires equal opportunity in the selection, testing, and hiring of qualified applicants with disabilities.

The ADA prohibits discrimination against workers with disabilities. "Covered entities" are all employers with 15 or more employees. The ADA employment provisions apply to private employers, state and local governments, employment agencies, labor organizations, and joint labor-management committees.

The ADA requires equal treatment in promotion and benefits.

Title I of the ADA States;

"No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures; the hiring, advancement, or discharge of employees; employee compensation; job training; and other terms, conditions, and privileges of employment."

The term "disability" means:

- a physical or mental impairment that substantially limits one or more of the major life activities, for example, walking, seeing, speaking or hearing
- a record of such an impairment, for example, a person who has recovered from cancer
- being regarded as having such an impairment even when no limitations exist, for example, a person who is scarred from burns

The ADA prohibits discrimination in all aspects of employment. The law requires that reasonable accommodation be made to enable qualified individuals with a disability to work on par with other employees. Working conditions, job applications, hiring and firing practices and employment-related services are some of the things covered by the law.

A "qualified individual" is someone who has the education and/or experience required to do the job. Reasonable accommodation means an adjustment to the job or to the work site which does not cause too much hardship for the employer.

"Reasonable accommodation" may include:

- making existing facilities used by employees readily accessible to and usable by individuals with disabilities
- job restructuring
- part-time or modified work schedules
- reassignment to a vacant position
- acquisition or modification of equipment or devices
- appropriate adjustment or modifications of examinations, training materials or policies
- the provision of qualified readers or interpreters
- other similar accommodations.

The term "undue hardship" means that an action requires significant difficulty or expense.

Factors to be considered in determining whether an accommodation would cause an undue hardship include:

- the nature and cost of the accommodation
- the resources and size of the business as a whole and of the facility making the accommodation
- the type of business operation, including the composition, functions, and structure of the workforce
- the impact that the accommodation would have on the facility making it and on the business as a whole.

The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

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