

Americans with Disabilities Act (ADA) - Overview

Title I of the Americans with Disabilities Act of 1990 prohibits employers from discriminating against qualified individuals with disabilities in hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment.

An individual with a disability is a person who:

- Has 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 impairment.

A qualified employee or applicant with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question. Reasonable accommodation may include, but is not limited to:

- Making existing facilities used by employees readily accessible to and usable by persons with disabilities.
- *Job restructuring, modifying work schedules, reassignment to a vacant position;*
- Acquiring or modifying equipment or devices, adjusting or modifying examinations, training materials, or policies, and providing qualified readers or interpreters.

An employer is required to make a reasonable accommodation to the known disability of a qualified applicant or employee if it would not impose an “undue hardship” on the operation of the employer’s business.

Reasonable accommodations are adjustments or modifications provided by an employer to enable people with disabilities to enjoy equal employment opportunities. Accommodations vary depending upon the needs of the individual applicant or employee. Not all people with disabilities (or even all people with the same disability) will require the same accommodation. For example:

- A deaf applicant may need a sign language interpreter during the job interview.
- An employee with diabetes may need regularly scheduled breaks during the workday to eat properly and monitor blood sugar and insulin levels.
- A blind employee may need someone to read information posted on a bulletin board.
- An employee with cancer may need leave to have radiation or chemotherapy treatments.

An employer does not have to provide a reasonable accommodation if it imposes an “undue hardship.” Undue hardship is defined as an action requiring significant difficulty or expense when considered in light of factors such as an employer’s size, financial resources, and the nature and structure of its operation.

An employer is not required to lower quality or production standards to make an accommodation; nor is an employer obligated to provide personal use items such as glasses or hearing aids.

Americans with Disabilities Act (ADA) - Frequently Asked Questions

Can you ask a job applicant about the severity of his disability?

No. Applicants may be asked about their ability to perform specific job functions. A job offer may be conditioned on the results of a medical examination, but only if the examination is required for all entering employees in similar jobs. Medical examinations of employees must be job related and consistent with the employer's business needs.

Should medical records be kept in personnel files?

No. Medical records are confidential and should be stored in a separate locked area.

Does an employer have to provide a reasonable accommodation if the employee doesn't request one?

An employer generally does not have to provide a reasonable accommodation unless an individual with a disability has asked for one. If an employer believes that a medical condition is causing a performance or conduct problem, it may ask the employee how to solve the problem and if the employee needs a reasonable accommodation. Once a reasonable accommodation is requested, the employer and the individual should discuss the individual's needs and identify the appropriate reasonable accommodation.

If there is more than one accommodation that can be provided, can the employer pick the accommodation?

Yes. Where more than one accommodation would work, the employer may choose the one that is less costly or that is easier to provide.

Does an employer have to give preference to a qualified applicant with a disability over other applicants?

No. An employer is free to select the most qualified applicant available and to make decisions based on reasons unrelated to a disability.

Can an employer be required to reallocate an essential function of a job to another employee as a reasonable accommodation?

No. An employer is not required to reallocate essential functions of a job as a reasonable accommodation.

Are applicants or employees who are currently illegally using drugs covered by the ADA?

No. Individuals who currently engage in the illegal use of drugs are specifically excluded from the definition of a "qualified individual with a disability" protected by the ADA when the employer takes action on the basis of their drug use.

Who enforces and investigates ADA claims?

The Equal Employment Opportunity Commission (EEOC) enforces ADA regulations covering employment.