

AMERICANS WITH DISABILITIES ACT

Disclaimer: This is a brief overview which cannot possibly set forth everything about the ADA and which, for purposes of brevity or as part of an effort to state legal concepts simply and in plain English, may describe the law in a manner which is not necessarily precise and/or accurate in every respect.

Signed into law on July 26 1990, the Americans with Disabilities Act is a wide-ranging legislation intended to make American Society more accessible to people with disabilities.

It is divided into five titles:

1. **Employment** (Title I): Business must provide reasonable accommodations to protect the rights of individuals with disabilities in all aspects of employment. Possible changes may include restructuring jobs, altering the layout of workstations, or modifying equipment. Employment aspects may include the application process, hiring, wages, benefits, and all other aspects of employment. Medical examinations are highly regulated.

2. **Public Services** (Title II): Public services, which include state and local government instrumentalities, the National Railroad Passenger Corporation, and other commuter authorities, cannot deny services to people with disabilities participation in programs or activities which are available to people without disabilities. In addition, public transportation systems, such as public transit buses, must be accessible to individuals with disabilities.

3. **Public Accommodations** (Title III): All new construction and modifications must be accessible to individuals with disabilities. For existing facilities, barriers to services must be removed if readily achievable. Public accommodations include facilities such as restaurants, hotels, grocery stores, retail stores, etc., as well as privately owned transportation systems.

4. **Telecommunications** (Title IV): Telecommunications companies offering telephone service to the general public must have telephone relay service to individuals who use telecommunication devices for the deaf (TTYs) or similar devices.

5. **Miscellaneous** (Title V): Includes a provision prohibiting either (a) coercing or threatening or (b) retaliating against the disabled or those attempting to aid people with disabilities in asserting their rights under the ADA.

The ADA's protection applies primarily, but not exclusively, to "disabled" individuals. An individual is "disabled" if he or she meets at least any one of the following tests:

1. He or she has a physical or mental impairment that substantially limits one or more of his/her major life activities;
2. He or she has a record of such impairment; Or

3. He or she is regarded as having such impairment.

Other individuals who are protected in certain circumstances include 1) those, such as parents, who have an association with an individual known to have a disability, and 2) those that are coerced or subjected to retaliation for assisting people with disabilities in asserting their rights under the ADA.

While the employment provisions of the ADA apply to employers of fifteen employees or more, its public accommodations provisions apply to all sizes of business, regardless of number of employees. State and local governments are covered regardless of size.

Facts about the Americans with Disabilities Act

[Title I](#) of the Americans with Disabilities Act which took effect July 26, 1992, prohibits private employers, state and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions and privileges of employment. An individual with a disability is a person who:

1. Has a physical or mental impairment that substantially limits one or more major life activities;
2. Has a record of such an impairment; or
3. 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:

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

An employer is required to make an 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. 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.

Medical Examinations and Inquiries

Employers may not ask job applicants about the existence, nature or severity of a disability. 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.

Drug and Alcohol Abuse

Employees and applicants currently engaging in the illegal use of drugs are not covered by the ADA, when an employer acts on the basis of such use. Tests for illegal drugs are not subject to the ADA's restrictions on medical examinations. Employers may hold illegal drug users and alcoholics to the same performance standards as other employees.

EEOC Enforcement of the ADA

The U.S. Equal Employment Opportunity Commission issued regulations to enforce the provisions of Title I of the ADA on July 26, 1991. The provisions originally took effect on July 26, 1992, and covered employers with 25 or more employees. On July 26, 1994, the threshold dropped to include employers with 15 or more employees.