

ADA and Reasonable Accommodation

The Americans with Disabilities Act of 1990 (ADA) is a federal law, which protects persons with disabilities from discrimination in the areas of employment, public accommodations, state and local government services, telecommunications and transportation.

The ADA guarantees that Americans with disabilities have the same legal protection against discrimination as that provided to individuals on the basis of race, color, national origin, sex and religion.

Who is disabled?

The ADA defines a person with a disability as someone who:

1. has a physical or mental impairment which substantially limits one or more of major life activities (such as learning, walking, seeing, etc.);
2. has a record of having had such an impairment; or
3. who is perceived or regarded as having such an impairment.

The protection provided by the ADA is not limited to those who are currently impaired. Rather, those who once had a disability, such as cancer or heart disease, but are no longer disabled, are still protected. The ADA also protects individuals who are perceived as disabled even if they are not, such as those with severe facial burns.

People with a hidden disability (HIV or learning disability) are considered disabled under the ADA if they are substantially limited in a major life activity. Finally, people who are not themselves disabled, but who are discriminated against because they are associated with someone who has a disability (e.g., the spouse of a person with muscular dystrophy) are also protected.

What are the requirements of the ADA?

Title II of the ADA which covers activities of State and local governments requires that State and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services, and activities (e.g. public education, employment, transportation, recreation, health care, social services, courts, voting and town meetings).

State and local governments are required to follow specific architectural standards in the new construction and alteration of their buildings. They also must relocate programs or otherwise provide access in inaccessible older

buildings, and communicate effectively with people who have hearing, vision, or speech disabilities. Public entities are not required to take actions that would result in undue financial and administrative burdens. They are required to make reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination, unless they can demonstrate that doing so would fundamentally alter the nature of the service, program or activity being provided.

The ADA emphasizes the provision of integrated benefits and services. Separate services or benefits may be provided only when they are necessary for people with disabilities to enjoy the same opportunities provided to others.

Which employers must comply with the ADA?

Any employer (including private business, state and local government, employment agencies and labor unions) with 15 or more workers has been covered under the ADA since July 26, 1994.

Who is protected by the ADA?

Any person with a disability (as defined above) who, with or without “reasonable accommodations”, can perform the “essential functions” of a job is considered a qualified employee or applicant and is therefore protected by the ADA. The ADA does not require an employer to hire anyone who is not qualified to perform the essential functions of the job.

What are reasonable accommodations?

Reasonable accommodations are adjustments or modifications, which range from making the physical work environment accessible, providing a flexible work schedule or providing assistive equipment (examples: TTY machine for customers with hearing impairments or a computer that enlarges print for customers with vision impairments). These accommodations are generally low cost solutions, which provide the environment and opportunity for a qualified worker to do his or her job.

Reasonable accommodations must be made on a case-by-case basis, and are not required when costs would constitute an undue hardship for an employer.

Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 states that “no qualified individual with a disability in the United States shall be excluded from, denied the benefits of, or be subjected to discrimination under” any program or activity that either receives Federal financial assistance (DOL) or is conducted by any Executive agency or the United Postal Service. Requirements under this section include reasonable accommodation for employees with disabilities; program accessibilities; effective communication with people who have hearing or vision disabilities; and accessible new construction and alterations. The Civil Rights Center (CRC) monitors and enforces Section 504 of the Rehabilitation Act of 1973 for applicants and employees of the Department of Labor. CRC also enforces Title II, Subpart A of the ADA for all programs, services and regulatory activities relating to labor and the workforce.