

Did You Know???

About the Americans with Disabilities Act of 1990 (ADA)

The ADA prohibits discrimination because of a disability in employment, public services, public and private transportation, public accommodations and telecommunications services. The ADA requires employers to provide reasonable accommodations to individuals with disabilities, so they can continue to do their job, be hired or be promoted. The individual must be qualified and able to perform the essential functions of the job with or without the accommodation.

Who are individuals with disabilities?

The ADA defines a person with a disability as an individual who:

1. Has a physical or mental impairment (either obvious or hidden) that substantially limits one or more of a person's major life activities. Major life activities include walking, seeing, hearing, breathing, working or performing manual tasks such as reaching, standing or lifting. An impairment may be obvious, such as the need for a wheelchair or it may be hidden, such as diabetes, HIV infection, mental illness or epilepsy.
2. Has a record of such impairment. For example, an individual may have received disability benefits or workers compensation for an illness or medical condition which is recorded in documents in the employer's files. The employee may or may not currently have a disability but this prong of the ADA protects employees from discrimination based on a history of a disabling condition, or the employer's classification of an individual as having a disability, whether correct or not.
3. Is regarded as having an impairment. For example, conditions that people mistakenly perceive as limiting, such as the use of a hearing aid, prominent facial scar, disfigurement or an involuntary jerking of the head.

What is a "reasonable accommodation"?

A "reasonable accommodation" is any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities. There are 3 categories of "reasonable accommodations."

1. Changes to the job application process
2. Modifications of the work site or the way a job is normally performed to allow a qualified individual with a disability to perform the essential functions of the job
3. Adjustments that allow an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by similarly situated employees without disabilities.

"Reasonable accommodations" must be effective, but do not have to be the best available. An effective accommodation enables an individual to perform the essential functions of the job with the assistance of the new equipment or other change or adjustment. Reasonable accommodation does not mean the employer must eliminate an essential function of the job. Likewise, an employer does not have to lower production standards applied to all employees, but it may provide an accommodation that will allow an employee with a disability to meet those standards.

When must a reasonable accommodation be provided?

An employer is not required to provide a reasonable accommodation until a request is made by or on behalf of an individual with a disability. The employer should be informed that assistance is needed for a medical reason. It is not necessary to use the term "reasonable accommodation" or "ADA". It is not necessary to make the request in writing, although it is usually a good idea to make such requests in writing. The employer must respond as soon as possible to a request for reasonable accommodation under the ADA.

The employer may not force an employee to accept as accommodation if he/she does not want one. However, once the employer is notified that a reasonable accommodation is necessary, the process should begin promptly.

If the disability is not obvious, the employer may request "reasonable documentation" about the specific disability and any limitations it causes, including information from the individual's health care provider. If such a request is made, the individual is obligated to respond to it. The employer cannot request more information than is needed to determine if a disability exists and/or that a reasonable accommodation is needed so that the individual can perform essential job functions. If the employer requires the individual to go to its own health care professional, any examination must be job-related and limited to these 2 issues, and the employer must pay all costs involved.

Source: CWA Education, Legal and Health and Safety Departments