

EARN

ADVANCING
WORKFORCE
DIVERSITY

Employer Assistance and Resource
Network on Disability Inclusion

Americans with Disabilities Act

EARN Training Center

Derek Shields, EARN Consultant



Americans with Disabilities Act of 1990



Americans with Disabilities Act of 1990

- The ADA is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public.
 - [Title I](#) 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. The ADA covers employers with 15 or more employees, including state and local governments. The ADA's nondiscrimination standards also apply to federal "sector employees" under section 501 of the Rehabilitation Act, as amended, and its implementing rules.
 - [Title II](#) covers programs, activities and services of [public entities](#). The law prohibits public entities (e.g., all state and local governments), regardless of size of workforce, from discriminating against qualified individuals with disabilities in their employment practices.

Americans with Disabilities Act of 1990

- The ADA prohibits covered employers from discriminating against qualified individuals with disabilities in:
 - Job application procedures
 - Hiring
 - Firing
 - Advancement
 - Compensation
 - Job training
 - Other terms, conditions and privileges of employment

The ADA Amendments Act of 2008 (ADAAA)

- The ADAAA --
 - Reaffirmed ADA definition of disability
 - Shift in focus from the definition of disability to obligations of nondiscrimination
 - Simplified the analysis of whether an individual has a disability

The ADA Amendments Act of 2008 (ADAAA)

- In enacting the ADAAA, Congress made it easier for an individual to establish that he or she has a disability under the ADA. Congress overturned several Supreme Court decisions that Congress believed had interpreted the definition of “disability” too narrowly, resulting in a denial of protection for many individuals with impairments such as cancer, diabetes, and epilepsy.
- The ADAAA states that the definition of disability should be interpreted in favor of broad coverage of individuals. Following the ADAAA, the EEOCs implementing regulations keep the ADA’s definition of the term “disability.” The regulations, however, implement the changes that Congress made regarding how those terms should be interpreted.

According to the ADA & ADAA

The term disability, with respect to an individual, means:

- a) a physical or mental impairment that substantially limits one or more **major life activities** of such individual;
- b) **a record of** such an impairment; or
- c) **being regarded as** having such an impairment.

ADA – “Major Life Activities”

- Caring for oneself
- Performing manual tasks
- Walking
- Seeing
- Hearing
- Speaking
- Breathing
- Reproduction
- Working
- Sleeping
- Learning
- Sitting
- Standing
- Lifting
- Reading
- Thinking
- Interacting with others
- Concentrating
- Major Bodily Functions (ADAAA)

ADA – “Record of”

- Person with a record or history of an impairment might include an individual who:
 - Is a cancer survivor
 - Has had a heart attack
 - Is living with a brain injury
 - Has a history of mental illness, drug/alcohol addiction

ADA – “Regarded as”

- A person is regarded as having a disability if he/she:
 - Has a visible birthmark/scar AND the employer regards the person as having a disability;
 - Is rumored to have a disability; or
 - Has an impairment that doesn't have substantial limitations, but others regard him/her as limited.

ADA – Discussing Disability Part 1

- The ADA limits when and why employers may ask job applicants and employees medical, health or disability related questions (or obtain related information).
- For example, employers may **not** ask job applicants:
 - To answer medical questions;
 - To take medical exams;
 - To identify disabilities;
 - Whether they have a disability or the nature of a known disability.

ADA – Discussing Disability Part 2

- Employers can ask whether applicants believe they can perform the essential functions of the job with or without a reasonable accommodation, and if so, how they would do so.
- Furthermore, employers may make a job offer contingent upon the answers to certain medical questions or successful passage of a medical exam, if:
 - The questions/exam are consistent with business need
 - All new employees in the same type of job have to answer the questions or take the exam

Reasonable Accommodation

Employers are required to make reasonable accommodations during the job application, interviewing and hiring phases of employment as well as providing reasonable accommodation when employees are working on the job.

What is a “reasonable accommodation?”

- Reasonable accommodation is any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities. It is not required to put it in writing but is often helpful to do so.

For example, reasonable accommodation may include:

- Physical access modifications to the employment worksite
- Acquiring or modifying equipment or devices

Reasonable Accommodation (continued)

- job restructuring,
 - part-time or modified work schedules,
 - reassignment to a vacant position,
 - adjusting or modifying examinations, training materials, or policies,
 - providing readers and interpreters, and
 - making the workplace readily accessible to and usable by people with disabilities.
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- Reasonable accommodation also must be made to enable an individual with a disability to enjoy benefits and privileges of employment equal to those available to other employees (for example, official, company-sponsored employee retreats and parties.)
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- It is a violation of the ADA to fail to provide reasonable accommodation to the known physical or mental limitations of a qualified individual with a disability, unless to do so would impose an undue hardship to your business. **Undue hardship** means that the accommodation would require significant difficulty or expense.

ADA Resources

- **EARN Website**

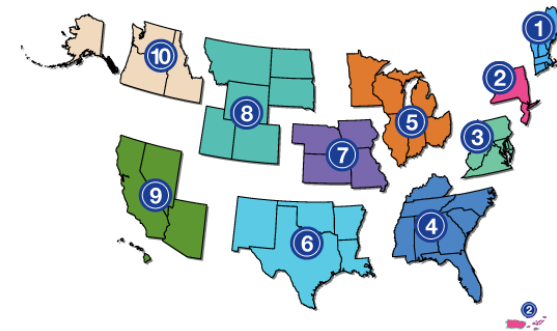
- www.askEARN.org

- **Job Accommodation Network ADA Library**

- <https://askjan.org/links/adalinks.htm>

- **ADA Centers**

- <https://adata.org/>



EARN Training Center

Learn how to create a **disability-inclusive organization** with EARN's Inclusion@Work Framework!

Don't know where to start? We'll guide you.
Check out these basics and learn how EARN can help your business be more disability inclusive.

Let's Go!

Recruitment & Hiring Retention & Advancement Laws & Regulations Creating an Accessible Workplace Federal Contractor Requirements Federal & State Government Employment

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Inclusion@Work: A Framework for Building a Disability-Inclusive Organization

Inclusion@Work: A Framework for Building a Disability-Inclusive Organization

- Step 1: Lead the Way: Inclusive Business Culture
- Step 2: Build the Pipeline: Outreach & Recruitment
- Step 3: Hire & Retain the Best: Talent Acquisition & Retention Processes
- Step 4: Ensure Productivity: Reasonable Accommodations
- Step 5: Communicate: External & Internal Communication of Company Policies & Practices
- Step 6: Be Tech-Savvy: Leveraging Technology & Communication Technology
- Step 7: Engage in Public Awareness & Government Engagement Activities