

THE AMERICANS WITH DISABILITIES ACT

*Understanding
the requirements
of the Americans
with Disabilities
Act can save you
costly lawsuits.*

The Americans with Disabilities Act (ADA) makes employment discrimination against a qualified individual with a disability unlawful.

This law applies to all businesses that employ 15 or more workers. ADA's purpose is to assist the disabled in holding jobs, traveling on public transportation and using public telecommunications services.

The law also requires that businesses make their facilities accessible to disabled customers regardless of how many workers are employed.

The ADA covers individuals with "a physical or mental impairment that substantially limits one or more major life activities," anyone with "a record of such impairment" and anyone "regarded as having such impairment." It protects a wide range of persons with disabilities, including the blind and people in wheelchairs as well as those with less obvious disabilities — hearing impairments, mental illness and AIDS.

Other disabilities covered include learning disabilities, eating disorders and physical conditions such as obesity. However, it doesn't include employees and job applicants who use illegal drugs.

Companies can legally refuse to hire applicants who currently use illegal drugs and can terminate employees who use them.

Businesses are prohibited from discriminating against qualified disabled

individuals in hiring, promotions, termination or other terms of employment. A qualified individual means one who can perform the essential functions of the job — with or without reasonable accommodations.

The term "reasonable accommodations" is described vaguely in the law. It could mean installing ramps, widening doorways and aisles or modifying work equipment. The law does state, however, that no accommodation is required which would create an "undue hardship" on the employer. The U.S. Equal Employment Opportunity Commission, EEOC, will determine what an undue hardship for each business is on a case-by-case basis.

In addition, businesses are **NOT** required to hire or employ disabled workers in positions where their disabilities pose a "direct threat" or "significant risk" to the health and safety of other employees or customers if that risk can't be eliminated through reasonable accommodations.

Disabled individuals have the right to sue employers when those workers feel they have been discriminated against. That worker must file charges with the EEOC. If the EEOC declines or fails to act, the worker can then file suit in federal court for equitable damages such as back pay, reinstatement, retroactive promotions and attorney's fees, but not punitive damages.

To obtain more information on the ADA, consult your Fiducial Business Services' representative.

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