

Appendix B

Title I of the Americans with Disabilities Act – Employment

The Americans with Disabilities Act of 1990 (ADA) is a civil rights law to provide people with disabilities and equal opportunity to employment, and access to goods and services from state and local governments as well as the public accommodations. A person that is covered under the ADA is a person with:

- A physical or mental impairment that substantially limits a major life activity
- Has a record, or history of such as an impairment
- Or is regarded as having such an impairment.

Title 1

Employers with 15 or more employees may not discriminate against a qualified person with a disability in hiring, promotion, compensation or other aspects of employment. A qualified person is an individual with a disability who is able to perform the essential requirements of a job with or without a reasonable accommodation.

Reasonable accommodations are the changes or modifications provided by the employer to assist an individual with a disability the opportunity to complete their tasks for a position. Some examples include

- Making existing facilities used by employees readily accessible and usable by a person with a disability (i.e. widening door, installing ramps, providing alternate format or materials, etc.;
- Job restructuring, modify a persons work schedule, reassign to a vacant position;
- Providing adaptive equipment, adjusting or modifying examinations, training materials or policies and provide qualified readers or interpreter or any other change in the work environment that does not cause undue hardship to the employer.
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An undue hardship is defined as an action that requires a 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.

Some examples of reasonable accommodations include:

- A deaf applicant that may need a sign language interpreter during a job interview.
- An employee with diabetes that maybe needs regular breaks during the workday to eat properly and monitor blood sugar and insulin levels.
- A blind employee may need someone to read information posted on a bulletin board.
- An employee with cancer may need leave to have radiation or chemotherapy treatments.

During the application process, the employer cannot inquire about the job applicant's medical condition, the existence of, nature or severity of a disability prior to making a qualified job offer. Applicants maybe asked about their ability to perform specific job functions. Also a medical or psychological test can be given only after a job offer has been made. These test maybe be offered before hand only if they are job related and consistent with the employers business needs. Drug testing is allowed under the ADA. Employers may reject an applicant or fire an employee who poses a direct threat to the health and safety of other individuals in eh workplace.

Medical records are confidential. The basic rule that with a few exceptions are that employers must keep confidential any medical information they learn about an applicant or employee.

Employees and applicants currently engaged in illegal sue of drugs are not covered under the ADA. 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.

It is also unlawful to retaliate against a person for opposing employment practices that discriminate based on disability or for filing a discrimination change, testifying or participating in any way in an investigation, proceeding or litigation under the ADA.

The Internal Revenue Code includes several provisions aimed at making businesses more accessible to people with disabilities. The following provides general – non-legal – information about three of the most significant tax incentives. (Employers should check with their accountants or tax advisors to determine eligibility for these incentives or visit the Internal Revenue Service's website, www.irs.gov, for more information. Similar state and local tax incentives may be available.)

- Small Business Tax Credit (Internal Revenue Code Section 44: Disabled Access Credit)
Small businesses with either \$1,000,000 or less in revenue or 30 or fewer full-time employees may take a tax credit of up to \$5,000 annually for the cost of providing reasonable accommodations such as sign language interpreters, readers, materials in alternative format (such as Braille or large print), the purchase of adaptive equipment, the modification of existing equipment, or the removal of architectural barriers.
- Work Opportunity Tax Credit (Internal Revenue Code Section 51)
Employers who hire certain targeted low-income groups, including individuals referred from vocational rehabilitation agencies and individuals receiving Supplemental Security Income (SSI) may be eligible for an annual tax credit of up to \$2,400 for each qualifying employee who works at least 400 hours during the tax year. Additionally, a maximum credit of \$1,200 may be available for each qualifying summer youth employee.
- Architectural/Transportation Tax Deduction (Internal Revenue Code Section 190 Barrier Removal):

This annual deduction of up to \$15,000 is available to businesses of any size for the costs of removing barriers for people with disabilities, including the following: providing accessible parking spaces, ramps, and curb cuts; providing wheelchair-accessible telephones, water fountains, and restrooms; making walkways at least 48 inches wide; and making entrances accessible.

For additional information go to the:

U.S. Equal Employment Opportunity Commission (EEOC)
131 M Street, NE
Washington, DC 20507
(202) 663-4900 / (TTY) (202) 663-4494
www.eeoc.gov