

## Preferred Terms

Many terms used to describe people with disabilities are stereotypical and insensitive. Here are some terms to avoid and suggested substitutes.

**AVOID:** handicapped, invalid, disabled

**SAY:** person with a disability

**AVOID:** victim of epilepsy, arthritis, MS, polio

**SAY:** has epilepsy, has arthritis, has MS, etc.

**AVOID:** deaf-mute, deaf and dumb

**SAY:** deaf, hearing impaired, speech impaired

**AVOID:** confined to a wheelchair

**SAY:** uses a wheelchair, mobility impaired

**AVOID:** cripple, crippled

**SAY:** is disabled, use the name of the disability i.e. had polio

**AVOID:** deformed

**SAY:** physically disabled

**AVOID:** retarded, slow, stupid

**SAY:** mentally retarded, mental disabilities

**AVOID:** slow, stupid, illiterate

**SAY:** people with learning disabilities, use the name of the disability i.e. has dyslexia

**AVOID:** spastic, fits

**SAY:** seizures, has epilepsy, has cerebral palsy

**AVOID:** insane

**SAY:** has a mental illness or emotional disorder

**AVOID:** mongoloid

**SAY:** has Down syndrome

continued from reverse side ■

### **Can an employer be required to reallocate an essential function of a job to another employee as a reasonable accommodation?**

No. An employer is not required to reallocate essential functions of a job as a reasonable accommodation.

### **Can an employer be required to modify, adjust or make other reasonable accommodations in the way a test is given to a qualified applicant or employee with a disability?**

Yes. Accommodations may be needed to assure that tests or examinations measure the actual ability of an individual to perform job functions rather than reflect limitations caused by the disability. Tests should be given to people who have sensory, speaking or manual impairments in a format that does not require the use of the impaired skill, unless it is a job-related skill that the test is designed to measure.

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A person has a disability under the law if she or he has a mental or physical impairment that substantially limits a major life activity, such as walking, talking, breathing, sitting, standing or learning. A person also has a disability under ADA if he or she has a record of an impairment or is perceived or regarded as having an impairment.

Family members who need special consideration because they are caring for someone with a disability may have some protection under ADA. However, ADA does not require employers to provide reasonable accommodation in these cases.



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Americans with Disabilities Act for employers

An overview of

# ADA

The Americans with Disabilities Act gives federal civil rights protections to individuals with disabilities similar to those provided to individuals on the basis of race, color, sex, national origin, age and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services, and telecommunications.

# ADA

## Americans with Disabilities Act for employers

# QUESTIONS & answers

ADA aims “to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.” Under the law, Americans with disabilities have greater access to employment, governmental programs, services, activities and public places like restaurants, theaters and shopping centers. The act includes five sections addressing employment, public services, transportation, public accommodations and telecommunications.

More than 50,000 Pennsylvania businesses with 15 or more employees must comply with ADA. A working understanding of the law is vital for the selection of employees, treatment of workers and customers, and delivery of your business’ services.

This pamphlet is a basic overview of ADA. Copies of Pennsylvania regulations regarding people with disabilities and federal law including ADA are available from the Pennsylvania Department of Labor and Industry’s Office of Vocational Rehabilitation at 1-800-442-6352. Two brochures are also available from OVR – Ability Management and Getting your Business Ready for ADA.



### **What practices and activities are covered by the employment nondiscrimination requirements?**

The ADA prohibits discrimination in all employment practices, including job application procedures, hiring, firing, advancement, compensation, training, and other terms, conditions and privileges of employment. It applies to recruitment, advertising, tenure, layoff, leave, fringe benefits and all other employment-related activities.

### **Who is protected from employment discrimination?**

Employment discrimination is prohibited against “qualified individuals with disabilities.” This includes applicants for employment and employees. An individual is considered to have a “disability” if s/he has a physical or mental impairment

that substantially limits one or more major life activities, has a record of such an impairment or is regarded as having such an impairment. Persons discriminated against because they have a known association or relationship with an individual with a disability also are protected.

### **Who is a “qualified individual with a disability”?**

A qualified individual with a disability is a person who meets legitimate skill, experience, education or other requirements of an employment position that s/he holds or seeks, and who can perform the essential functions of the position with or without reasonable accommodation. Requiring the ability to perform essential functions assures that an individual with a disability will not be considered unqualified simply because of inability to perform marginal or incidental job functions. If the individual is qualified to perform essential job functions except for limitations caused by a disability, the employer must consider whether the individual could perform these functions with a reasonable accommodation. If a written job description has been prepared in advance, this will be considered as evidence of the essential functions of the job.

### **Does an employer have to give preference to a qualified applicant with a disability over other applicants?**

No. An employer is free to select the most qualified applicant available and to make decisions based on reasons unrelated to a disability. For example, suppose two people apply for a job as a typist and an essential function of the job is to type 75 words per minute accurately. One applicant, an individual with a disability, who is provided with a reasonable accommodation for a typing test, types 50 words per minute; the other applicant who has no disability accurately types 75 words per minute. The employer can hire the applicant with the higher typing speed, if typing speed is needed for successful performance of the job.

### **When can an employer ask an applicant to “self-identify” as having a disability?**

Federal contractors and subcontractors who are covered by the affirmative action requirements of section 503 of the Rehabilitation Act of 1973 may invite individuals with disabilities to identify themselves on a job application form or by other pre-employment inquiry, to satisfy the section 503 affirmative action requirements. Employers who request such information must observe section 503 requirements regarding the manner in which such information is requested and used, and the procedures for maintaining such information as a separate, confidential record, apart from regular personnel records.

### **Does ADA require employers to develop written job descriptions?**

No. ADA does not require employers to develop or maintain job descriptions. However, a written job description that is prepared before advertising or interviewing applicants for a job will be considered as evidence along with other relevant factors. If an employer uses job descriptions, they should be reviewed to make sure they accurately reflect the actual functions of a job. A job description will be most helpful if it focuses on the results or outcome of a job function, not solely on the way it customarily is performed. A reasonable accommodation may enable a person with a disability to accomplish a job function in a manner that is different from the way an employee who is not disabled may accomplish the same function.

### **When is an employer required to make a reasonable accommodation?**

An employer is only required to accommodate a “known” disability of a qualified applicant or employee. The requirement generally will be triggered by a request from an individual with a disability, who frequently will be able to suggest an appropriate accommodation. Accommodations must be made on an individual basis, because the nature and extent of a disabling condition and the requirements of a job will vary in each case. If the individual does not request an accommodation, the employer is not obligated to provide one except where an individual’s known disability impairs his/her ability to know of, or effectively communicate a need for, an accommodation that is obvious to the employer. If a person with a disability requests, but cannot suggest, an appropriate accommodation, the employer and the individual should work together to identify one. There are also many public and private resources that can provide assistance without cost.