

Key Elements of the ADA

Key Elements of Title I of the Law

The Americans with Disabilities Act (ADA) prohibits discrimination against people with disabilities in areas such as employment and public accommodations.

Since July of 1992, employers with 25 or more employees cannot discriminate in hiring and other job practices. In July of 1994, employers with 15 or more employees will also be required to comply with the provisions of the ADA.

A Person with a "Disability" Defined

A person who:

- has a physical or mental impairment which substantially limits a major life activity;
- has a record of such impairment; and
- is regarded as having such impairment.

"Major Life Activities" Defined

- seeing
- hearing
- walking
- caring for oneself
- performing manual tasks
- learning
- breathing
- working
- speaking

"Substantially Limits" Defined

Occurs if the individual is unable to perform a major life activity or if the individual is significantly restricted in a major life activity when compared with the average person in the general population. Determined by considering:

- the nature and severity of the impairment;
- the duration or expected duration of the impairment; and
- its permanent, long-term, or expected impact.

"Physical Impairment" Defined

A physical impairment is defined as any physiological disorder, condition, cosmetic disfigurement, or anatomical loss which affects one or more of the following body systems: neurological, musculoskeletal, sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine.

For example:

- cerebral palsy
- muscular dystrophy
- AIDS
- heart disease
- epilepsy
- multiple sclerosis
- cancer
- diabetes

"Mental Impairment" Defined

A mental impairment is defined as any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, as well as specific learning disabilities.

A comprehensive list is not provided by the ADA statute or the EEOC regulations because of the abundance and variety of possible physical and/or mental impairments.

"Qualified Individual with a Disability" Defined

A person must be a "qualified" individual with a disability to be protected under the ADA. A qualified individual with a disability is a person who:

- satisfies the requisite skills, experience, education and other job-related requirements of the employment position; and
- can perform the essential functions with or without a reasonable accommodation.

Who Is Covered...

A person must be a "qualified" individual with a disability to be protected under the ADA. The process for determining whether or not a person with a disability is qualified is two-fold:

1. the employer must determine whether the individual satisfies the requisite skill, experience, education and other job related requirements of the position, and;
2. the applicant must convince the employer s/he can perform the essential functions of the job with or without reasonable accommodations.

Who Is Not Covered...

The ADA specifically states that certain individuals are not protected by its provisions including those with:

- minor or trivial impairments
- simple physical characteristics
- environmental or cultural disadvantages
- transvestism
- homosexuality
- sexual behavior disorders
- compulsive gambling
- kleptomania
- pyromania

Persons who currently use illegal drugs

Individuals who currently use drugs illegally are not protected under the ADA. This includes people who use prescription drugs illegally as well as those who use illegal drugs. People who have been rehabilitated and are not currently using drugs illegally, or who are currently enrolled in a rehabilitation program may be protected under the ADA.

Persons who currently use alcohol

Individuals who use alcohol are not automatically denied protection under the ADA. An alcoholic is a person with a disability, and s/he is protected if they are qualified to perform the essential functions of the job with or without an accommodation. However, an employer may discipline, discharge or deny employment to any person whose use of alcohol adversely affects job performance or conduct.

Temporary Impairments

Temporary non-chronic impairments that do not last for a long time and that have little or no long term impact usually are not considered a disability. The temporary impairment is only considered a disability "substantially limits" one or more major life activities. This is determined by examining:

- the extent;
- the duration; and
- the impact of the impairment.

For example, the following would not be considered as disabilities under the ADA: broken limbs, concussions, appendicitis, colds, or influenza.

However, if a broken leg took significantly longer to heal than what is considered to be a normal healing period and the individual could not walk, that person then would be considered to have a disability. Likewise, if that individual's leg resulted in a permanent impairment that significantly restricted walking or other major life activities, that person would be considered to have a disability and would be protected under the ADA.

Source

A Technical Assistance Manual on the Employment Provisions (Title I) of the Americans with Disabilities Act, U.S. Equal Employment Opportunity Commission, January 1992.



Center on Education and Work, School of Education, University of Wisconsin-Madison
964 Educational Sciences Building, 1025 West Johnson Street
Madison, Wisconsin 53706-1796
Phone: 608-263-4151 FAX: 608-262-9197

Lloyd W. Tindall, *Project Director*
John J. Gugerty, *Project Staff*
Kelli J. Thuli, *Project Staff*
Bonnie Roush Phelps, *Project Staff*
Dorothy Stoddard, *Program Assistant*