

## **1. What is a "reasonable accommodation"?**

A reasonable accommodation is any modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions. Reasonable accommodation also includes adjustments to assure that a qualified individual with a disability has rights and privileges in employment equal to those of employees without disabilities.

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

Employment discrimination is prohibited against "qualified individuals with disabilities." This includes applicants for employment and employees. Under The Americans with Disabilities Amendments Act (ADA), 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 or has a record of such an impairment. People discriminated against because they have a known association or relationship with an individual with a disability also are protected.

The ADA applies to persons who have impairments that substantially limit major life activities such as seeing, hearing, speaking, walking, breathing, performing manual tasks, learning, caring for oneself, and working. An individual with epilepsy, paralysis, HIV infection, AIDS, a substantial hearing or visual impairment, mental retardation, or a specific learning disability is covered, but an individual with a minor, non-chronic condition of short duration, such as a sprain, broken limb, or the flu, generally would not be covered. Individuals with a record of a disability are also protected; for example, a person who has recovered from cancer or mental illness.

Individuals who are regarded as having a substantially limiting impairment, even though they may not have such an impairment, are also protected. For example, this provision would protect a qualified individual with a severe facial disfigurement from being denied employment because an employer feared the "negative reactions" of customers or co-workers.

## **3. What are some of the accommodations applicants and employees may need?**

Examples of reasonable accommodation include making existing facilities used by employees readily accessible to and usable by an individual with a disability; modifying work schedules; acquiring or modifying equipment; providing qualified readers or interpreters; or appropriately modifying examinations, training, or other programs. Reasonable accommodation also may include reassigning a current employee to a vacant position for which the individual is qualified, if the person is unable to do the original job because of a disability even with an accommodation. However, there is no obligation to find a position for an applicant who is not qualified for the position sought. Employers are not required to lower quality or quantity standards as an accommodation, nor are they obligated to provide personal use items such as glasses or hearing aids.

### **3. 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 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.

### **4. 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

### **5. What are the limitations on the obligation to make a reasonable accommodation?**

The disabled individual requiring the accommodation must be otherwise qualified, and the disability must be known to the employer. In addition, an employer is not required to make an accommodation if it would impose an "undue hardship" on the operation of the employer's business. "Undue hardship" is defined as "an action requiring significant difficulty or expense" when considered in light of a number of factors. These factors include the nature and cost of the accommodation in relation to the size, resources, nature, and structure of the employer's operation. Where the facility making the accommodation is part of a larger entity, the structure and overall resources of the larger organization would be considered, as well as the financial and administrative relationship of the facility to the larger organization. In general, a larger employer would be expected to make accommodations requiring greater effort or expense than would be required of a smaller employer.

**6. Can an employer consider health and safety when deciding whether to hire an applicant or retain an employee with a disability?**

Yes. The ADA permits employers to establish qualification standards that will exclude individuals who pose a direct threat--i.e., a significant risk of substantial harm-- to the health or safety of the individual or of others, if that risk cannot be eliminated or reduced below the level of a "direct threat" by reasonable accommodation. However, an employer may not simply assume that a threat exists: the employer must establish through objective, medically supportable methods that there is significant risk that substantial harm could occur in the workplace. By requiring employers to make individualized judgements based on reliable medical or other objective evidence rather than on generalizations, ignorance, fear, patronizing attitudes, or stereotypes, the ADA recognizes the need to balance the interests of people with disabilities against the legitimate interests of employers in maintaining a safe workplace.