

Americans with Disabilities Act

Title I: Employment Overview

Title I of the ADA prohibits employers, including public employers, with 15 or more employees from discriminating against qualified individuals with disabilities in the terms, conditions, and privileges of employment. 42 U.S.C. § 12112(a). A person is qualified when, either with or without reasonable accommodations, they can perform the essential functions of a job. Disability discrimination includes disparate treatment, disparate impact, and the denial of reasonable accommodations.

Disparate treatment occurs when an employer takes an adverse employment action based on a person's disability. Disparate impact is the use of neutral standards, rules, or methods of administration that screen out or adversely affect the employment opportunities or status of people with disabilities. Everything from physical requirements to inflexible break or leave policies to the use of inaccessible software could be included. Practices that have a disparate impact on qualified individuals with disabilities are permissible only if an employer can show that they are job related and necessary for business.

Employers must also provide reasonable accommodations, that is, modifications or adjustments that enable an individual with a disability to do the job. Examples can include removing physical barriers, job restructuring, transfers to other positions, and the provision of auxiliary aids and services such as communication aids. Employers must engage in an interactive process with employees to determine what accommodations are available and reasonable.

Employers need not provide accommodations that they show pose undue administrative or financial hardship. Under this standard, an employer does not have to make a fundamental alteration to its business to accommodate an employee. An employer also need not allow a direct threat to health or safety when that threat cannot be mitigated by an accommodation. What accommodation may be reasonable and whether it poses an undue hardship, fundamental alteration, or direct threat requires a highly fact specific and individualized inquiry.

The Equal Employment Opportunity Commission primarily enforces Title I. Title I claimants must file a complaint with the EEOC or with a similar state agency before going to court. The remedies for Title I violations are the same as those under Title VII of the Civil Rights Act of 1964 covering employment discrimination based on race, sex, and religion. Successful claimants can receive injunctive relief such as reinstatement or policy changes, attorneys fees, and in some cases monetary relief subject to certain caps. Monetary relief is unavailable against state employers.