

Overview:

The Americans with Disabilities Act (ADA) is federal legislation that prohibits employment discrimination against individuals with disabilities. That protection extends from hiring to promotion considerations and all other conditions of employment. The only exception to this law is when the disabled person is unable to perform the essential job functions that are required. An essential job function is one that is fundamental and necessary to the position.

A disabled individual is one who has a physical or mental impairment that limits his or her ability to perform basic life activities. These life activities include such things as the ability to care for oneself, walking, seeing, hearing, and breathing.

A critical consideration in the ADA is the concept of reasonable accommodation. Reasonable accommodation is any modification or adjustment to a job, a policy, or a work environment that makes it possible for a person with a disability to perform the essential functions of a given job.

Reasonable accommodations is not limitless, however. It is enforced only if the accommodation does not create an undue hardship on the employer. Significant hardship usually means that it is too expensive and the cost to implement will create financial hardship on the employer. When considering cases of undue hardship, courts look at both the cost of the accommodation and the resources of the organization.

Goals:

After reading this module you should:

1. Understand the Americans with Disabilities Act.
2. Know how to define a disability.
3. Know what reasonable accommodations consist of.

Comments:

Topic: Americans with Disabilities Act (ADA)

1. ADA Defined:

- ◆ The ADA prevents employers from discriminating against a qualified individual with a disability.
- ◆ That does not mean that employers must hire people with disabilities who do not meet the job requirements or do not have the skills to perform the job.
- ◆ What it means is that if a person is disabled and is qualified for the job, then the employer cannot make a decision not to hire the person based on disability.
- ◆ In addition to hiring, the ADA protects people with disabilities on all employment decisions including promotions, and opportunities for training.

2. Disability Defined

- ◆ A disability is defined as a physical or mental impairment that limits the ability to perform basic life activities.
- ◆ Basic life activities are defined as the ability to care for oneself, breath, eat, walk, talk, hear and see.
- ◆ An interesting note to this law is that even in case s where people don't have a disability, if they are perceived to have a disability, this law protects them from discrimination. In other words, if an employer believes a candidate is qualified, but doesn't hire him or her because the employer believes that the person is disabled, that person has legal rights under the ADA despite the fact that he or she is not disabled.

3. Reasonable Accommodation Defined

- ◆ Reasonable accommodation is any modification or adjustment to a job, policy, or equipment that makes it possible for an individual to perform the essential functions of the job.
- ◆ The employer is not required to provide accommodations if doing so would create an undue hardship.
- ◆ Undue hardship essentially means that the accommodation costs too much.
- ◆ Courts look at both the cost of the accommodation and the financial resources of the employer when determining whether the cost would burden the employer with undue hardship.
- ◆ Most large companies would not be able to claim undue hardship and would be required to provide accommodation.

4. Benefits of Complying with ADA Laws

- ◆ Hiring and providing organizational opportunities for disabled individuals widens the potential pool of candidates for your organization.
- ◆ It reflects positively on your organization when you have people with disabilities on staff. Customers and other candidates will be drawn to your company when they see that you do not discriminate in your business practices.

ADA Cases and Comments

Please review the following case studies:

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CASE: Mary is interviewing for a customer service representative job at your organization, a large insurance company. An essential job function is to handle customer issues and problems through telephone conversations. Mary has performed a similar job for her previous employer and was highly recommended in her references. Mary has recently become disabled. She has a hearing impairment and requires a special telephone receiver that amplifies the volume so she can perform her job. Your company refuses to provide the special device, citing financial hardship, and does not hire Mary. Mary sues under the ADA. How will this case turn out?

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ANALYSIS: This is clearly a case of discrimination that would be covered under ADA provisions. Mary is qualified, and the special device probably does not cost very much. Assuming that Mary is qualified for the position, she would likely win the suit.

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CASE: Joe is interviewing for a job with your organization, a small manufacturing company. Joe was in a car accident and was paralyzed from the waist down, requiring him to use a wheelchair. The job requires only the use of his hands, which work fine, but Joe's qualifications for the job are less than your minimum standards for essential job functions. There are two other candidates who are not disabled, but are highly qualified for the position. Still you are afraid of potential lawsuits if you don't hire Joe. In addition, your building is not wheel chair accessible. You decide to hire on of the other candidates, and Joe sues your company. How does the case turn out?

ANALYSIS: Because Joe's qualifications don't meet your requirements you are perfectly justified in hiring the other candidate. The case may cause you to take action on the fact that your building is not accessible by wheelchairs, though.