

## **The ABC's of ADA**

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### *Part One*

Have you ever heard of the ADA? That term seems to be everywhere these days, but just what is it and who does it cover?

ADA stands for the Americans with Disabilities Act which addresses some familiar accessibility issues and requirements, like ramps and sidewalk curb cuts to make it easier for people in wheelchairs to access public places, and designated handicapped parking and rear-view mirror placards identifying those authorized to use those spots.

But few people who don't use a wheelchair stop to think or realize the "conveniences" they take for granted that also make it easier for those with strollers, grocery carts and others to get around are the result of ADA regulations. You may not be protected by it but many times you benefit from it.

The ADA itself is quite long and complicated, but its impact and intent can be boiled down to a few general statements.

The ADA 1990 was passed by Congress, and signed by the president on July 26, 1991 and represents the first federal act designed to stop discrimination against people with disabilities solely because they have a disability. It is a widespread law that applies not only to access to public buildings, but also to the rights of individuals with disabilities to pursue their dreams to further their education, start or continue a career or even their right to actively participate as volunteers. It protects their right to control their daily living activities and gives them the freedom to choose their own destiny. This legislation applies to all areas and levels of government, even the United States Congress.

The ADA does not specify which disabilities are covered but provides a three-part test to determine actual disability: an "impairment" or physiological disorder or condition and the substantial limitation of a "major life activity" as a result of that impairment, disorder or condition. All three parts must be met to claim ADA protection.

A "major life activity" is defined as "those basic activities that the average person in the general population can perform with little or no difficulty" and includes "functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working."

Persons covered by the ADA include, of course, people with disabilities, but this determination can be a little complicated because not everyone with a disability uses a wheelchair or a cane. Many disabilities can't be seen, like diabetes, heart conditions and epilepsy. These hidden disabilities can be a source of misunderstanding and unfair judgments, like a legally disabled but otherwise healthy looking person being accused of improperly taking a handicapped parking space. People with hidden disabilities often suffer the brunt of the public's misunderstanding and lack of information and education about ADA and disabilities in general.

Another group protected under the ADA includes those who provide care to individuals with disabilities, such as parents, spouses, siblings or even in some cases friends and associates. An employer may not refuse to hire an individual because that individual has a spouse, child or other dependent that has a disability, or because of fear of possible increased health care or insurance costs. A perspective employee that has a dependent with a disability cannot be rejected for a

position on the assumption that he or she will be unreliable or have absenteeism issues associated with caring for someone with a disability.

The last group of people protected by the ADA includes those who are not substantially limited by an impairment but are regarded by others as having an impairment.

In some ways, the perceptions of others can actually satisfy the ADA's three-part test that establishes disability, and the ADA provides protections against discrimination in such cases.

The Equal Employment Opportunity Commission's Code of Federal Regulations cites several examples of how perceptions can establish a disability. In the first example, an employer transfers an employee with high blood pressure to a less stressful position out of fear that the employee's current job may cause the employee to suffer a heart attack. By taking this action for these reasons, the employer has regarded the person as disabled.

In another example, a 3-year-old child with a facial deformity is refused admission to a private daycare program because the school staff believes that the child's physical appearance will upset the other children. This child is considered disabled because of the attitudes of others, not because of an actual physical impairment.

In a final example, consider the case of an employer who hears a rumor that an employee has cancer and he fires the supposedly sick employee. Even though the employee did not have an impairment, the employer treated him as if he had a "substantially limiting" impairment.

The ADA protects from discrimination people others believe may have a disability based on unfounded information and personal attitudes about disabilities. The U.S. Supreme Court has ruled and Congress has affirmed that this kind of protection is necessary because "society's myths and fears about disability and disease are as handicapping as are the physical limitations that flow from actual impairments."

The overall purpose of the Americans with Disabilities Act is to protect persons with disabilities from discrimination and negative attitudes. With new technologies being developed every day, impairments are becoming less of an issue. Therefore, it seems that disabilities are defined more by perceptions than the actual impairment.

The more we know about our world the better prepared we will be to meet new challenges when they arise. Anyone can join this minority group at any time simply by being in the wrong place at the wrong time when, suddenly, your whole world changes. According to the 2000 U.S. Census, 19.3 percent of the U.S. population (almost 1 in 5) have a disability. In Kentucky that figure is even higher at 23.7 percent overall and as high as 37.7 percent of the population in certain regions.

No wonder the ADA has made such an impact!