Understanding the Americans with Disabilities Act

Alabama A&M University
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ADA Statutory Authority

The Americans with Disabilities Act of 1990 ([ADA), including changes made in 2008 which became effective on January 1, 2009 is codified in Title 42, Chapter 126 section 12101.

Title I – Employers
Title II – Public Services
Title III – Public Accommodation
Title I – Employment

Businesses, or employers, must provide reasonable accommodations to protect the rights of individuals with disabilities in all aspects of employment.

Possible accommodations may include restructuring jobs, altering the layout of workstations, or modifying equipment. Employers may not discriminate in the application process, hiring, wages, benefits, and all other aspects of employment.
Basic Statutory Obligations

ADA

• Disability discrimination by employers prohibited

• Reasonable accommodation required
AAMU

AAMU complies with all applicable federal and state laws.

ADA matters must be reported to the Office of Human Resources Director by the employee seeking an accommodation and/or the employee’s supervisor to verify that the employee is a qualified individual with a disability and to determine a reasonable accommodation.
Covered Employers

ADA

• Private employers and employment agencies with 15 or more employees

• State and local governments, but not the federal government
Qualifying Events

ADA

• Qualified individual must have a physical or mental impairment that substantially limits a major life activity; OR
• A “record of” such impairment; OR
• Be “regarded” by others as having such an impairment
Qualifying Events (cont.)

ADA and FMLA compared

• ADA and FMLA must be analyzed separately

• Some disabilities may also be serious health conditions

• However, some FMLA-covered serious health conditions do not qualify under ADA
Employee Eligibility

ADA

• Qualified individual with a disability

• Can perform the job with or without reasonable accommodation
Notice and Posting Requirements

ADA

• Notice posted describing protections of the ADA

• Put in posters and employee handbooks
Employee Notice

ADA

• Employee must self-identify if disability is not obvious

• Eligible employee and employer must discuss reasonable accommodation
Medical Certification

ADA

• After an offer, certification permitted to establish need for reasonable accommodation
Independent Medical Examinations

ADA
• When disability documentation is insufficient

• Conducted at the employer’s expense with approval of Human Resources and Office of General Counsel
Disqualifying Events

ADA
• Failure to provide necessary medical information
• Refusal of a reasonable accommodation
Undue Hardship

**ADA**

- Accommodation not required

- Consider the nature and cost of the accommodation

- Cannot fundamentally alter the educational program or experience
Substance Abuse

ADA
- Alcoholism covered as a disability
- Current illegal drug use not covered
- Drug tests not prohibited
Other Exceptions

ADA

• Direct threat to health or safety
Attendance Policies

ADA

• “No-fault” leave policies not allowed
Leave Requirements

ADA

• No paid or unpaid leave requirement

• Depends on reasonable accommodation and accrued leave
Benefits Issues

ADA

• Same as benefits for other unpaid leave
Intermittent Leave

ADA
• May be a reasonable accommodation

• Compensation
Part-Time Employees

ADA

• Covered by the ADA
Light Duty

ADA

• May provide a light-duty position as a reasonable accommodation

• Not required to create light-duty position
Termination

ADA

- Permitted if employee cannot perform job and no reasonable accommodation can be made
Recordkeeping and Reporting

ADA

• Advisable to record requests for accommodation, attempt(s) to accommodate, and reason(s) that attempts to accommodate were not successful

• Medical information is confidential
Retaliation

ADA

• No discrimination or retaliation against any person (disabled or not) who has exercised rights under the ADA, taken action, or assisted in any action under the ADA
Association Clause

Employees cannot be discriminated against because they are associated/affiliated with an individual with a disability

* Consider at all time, but particularly in hiring, promotion, etc.
Employer Liability

ADA

• Acts of employer, supervisors or agents, co-workers, third-party nonemployees

• Back pay, reinstatement, front pay, attorney’s fees, and other equitable relief, if appropriate
Conclusion

Points to Remember:

• Notify the Office of Human Resources Director upon Receipt of Request
• Document
• Monitor
• Be Aware
• Retain Confidentiality
• Avoid Retaliation or Disparate Treatment
Office of General Counsel

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