

## Employment Discrimination

### Title I of the ADA

There are many laws that impact employment rights. Title I of the Americans with Disabilities Act (ADA) prohibits employment discrimination against qualified individuals with disabilities in the private sector ([http://www.ada.gov/ada\\_title\\_1.htm](http://www.ada.gov/ada_title_1.htm)). Generally speaking, this means an employer with 15 or more employees, cannot discriminate against a qualified person with a disability during advertising, recruitment, the application process, hiring, day-to-day work, advancement, tenure, leave, fringe benefits, compensation, training, lay-offs, firing, and all other employment-related activities.

In order to receive protection under the ADA, an individual must have a disability. The term "disability" is defined as:

- having a physical or mental impairment that substantially limits one or more major life activities,
- having a record of such impairment, or;
- being regarded by other people as having an impairment.

An individual may qualify for protection by meeting any one of these definitions. Major life activities include, but are not limited to, functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. Additionally, life activities may include functions or systems of the body, such as circulatory, respiratory, or reproductive systems.

A qualified individual with a disability is an individual with a disability who satisfies the skill, experience, education, and other job-related requirements of an employment position. This means that an individual is able to perform the essential functions of the position with or without a reasonable accommodation.



### Examples of Title I ADA Discrimination

#### Limiting, Segregating, and Classifying

Usually, it is unlawful for an employer to limit, segregate, or classify a job applicant or employee in a way that hurts his/her employment opportunities or status on the basis of disability. For example, an employer cannot place all employees with disabilities on one side of the building while all employees without disabilities sit on the other, if the division is based on disabilities. In another example, an employee cannot knowingly withhold job announcements to a person, or persons, who are deaf because the job description requires use of the telephone.

#### Contractual

Usually, it is unlawful for an employer to make assumptions about its potential employees, or current employees, with disabilities. It would be a violation of the ADA for an employer to assume what is best for an employee with a disability. For example, an employer could not prohibit an employee who uses a wheelchair from a job that requires attendance at meetings offsite even if the employer believes it is unsafe, or too hard, for the

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employee to get to and from the meetings.

Usually, it is unlawful for an employer to adopt a separate track of job promotion, or progression, for employees based on presumptions. For example, assuming employees with disability are uninterested, or incapable, of performing a particular job, or performing added duties to their existing job, and therefore not offering them new opportunities, is considered unlawful according to the ADA.

### **Relationship or Association, with an Individual with a Disability**

Usually, it is unlawful for an employer to exclude or deny equal jobs or benefits to an otherwise qualified individual because the employer knows the potential applicant has a family member, business partner, social association, or other relationship or association with a person with a disability. For example, an employer cannot deny a qualified person a job because that person's spouse has a disability and the employer assumes the employee would miss too much work as a result.

### **Reasonable Accommodations**

If you are an employee and know you can do your job with a reasonable accommodation (i.e. a ramp to the bathroom, or speech activation software), you have the right to request a reasonable accommodation from your employer under Title I of the ADA. See the Disability Law Center's "How to Request a Reasonable Accommodation" fact sheet for more information.

## If You Feel You Have Been Discriminated Against

If you feel you have been discriminated against in your workplace, you have the right to file a claim with the Montana Human Rights Bureau (MHRB), or the Equal Employment Opportunity Commission (EEOC). See the Disability Rights Montana "How to File an Employment Discrimination Claim" for more information.

For more information about disability discrimination visit:

<https://www.eeoc.gov/laws/types/disability.cfm>

## For More Information

If you have further questions, or would like more information in general, please contact Disability Rights Montana. Our services are offered statewide and free of charge.

Call 1-800-245-4743 or visit our office to speak confidentially with an Advocate. Office hours are Monday-Friday, 8:00 AM to 4:00 PM.



1022 Chestnut Street  
Helena, Montana 59601  
(800) 245-4743  
(406) 449-2344

DisabilityRightsMT.org  
Advocate@DisabilityRightsMT.org