



# Employment Discrimination Packet

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# **Employment Discrimination Packet**

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## **U.S. Equal Employment Opportunity Commission (EEOC)**

Throughout its existence, the U.S. Equal Employment Opportunity Commission (EEOC) has focused on one simply stated mission: *the elimination of illegal discrimination from the workplace*. To accomplish that goal, various approaches some dictated by statutory limitations and some by philosophical and managerial considerations have been employed. This publication will address in particular how three influences explain many of the decisions affecting how the Commission accomplishes its mission.

Of all the influences, the direction and limitations imposed by Congress and by the Administration in power explain the major sea changes in EEOC's enforcement operations over time. Thus, conciliation, education, outreach and technical assistance were the primary methods employed by EEOC at its inception because that was what the law permitted. After Congress gave EEOC litigation enforcement authority in 1972, that became a focal point for the agency. Today, the challenge manifests itself in achieving a wholly integrated approach that strategically links all activities in a delicate balance that adjusts for new and innovative programs like alternative dispute resolution methods, such as mediation. This mechanism is now becoming an effective tool to resolve more and more disputes.

A second major influence on Commission operations is the particular enforcement philosophy of its commissioners. In particular, the Commission has at different times encouraged pursuit of large, complex, time-intensive systemic investigations and lawsuits that involve mostly larger employers and significant numbers of potentially affected class members. At other times, the Commission has emphasized an individual victim approach, designed to remedy particularized fact-intensive wrongs affecting one or a few identifiable individuals. In other eras, some mix between the systemic and individual approach has held sway.

A third influence, connected with the other two, is the need to address particular problems or concerns in the operation of the agency. Thus, there have been times when EEOC has seen its jurisdiction expand as a result of Congressional mandates and Executive Branch reorganizations. Unfortunately, additional staffing and resources did not always accompany these expansions. Thus, the Commission often has had to modify its procedures to enable it to address increased enforcement responsibilities, without staff or funding increases concomitant with them. Such actions have required EEOC to formulate innovative strategies to ensure that the promise of opportunity moves closer to fulfillment.

EEOC's strength has been its ability to rise to each challenge. As we enter the 21st century, EEOC needs to continue to embody its core values of fairness, effectiveness and efficiency, ensuring that it continues to stand as the nation's premier civil rights enforcement agency.

# Discriminatory Practices

Under [Title VII of the Civil Rights Act of 1964](#), the [Americans with Disabilities Act](#) (ADA), and the [Age Discrimination in Employment Act](#) (ADEA), it is illegal to discriminate in any aspect of employment, including:

- hiring and firing;
- compensation, assignment, or classification of employees;
- transfer, promotion, layoff, or recall;
- job advertisements;
- recruitment;
- testing;
- use of company facilities;
- training and apprenticeship programs;
- fringe benefits;
- pay, retirement plans, and disability leave; or
- other terms and conditions of employment.

Discriminatory practices under these laws also include:

- harassment on the basis of race, color, religion, sex, national origin, disability, or age;
- retaliation against an individual for filing a charge of discrimination, participating in an investigation, or opposing discriminatory practices;
- employment decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals of a certain sex, race, age, religion, or ethnic group, or individuals with disabilities; and
- denying employment opportunities to a person because of marriage to, or association with, an individual of a particular race, religion, national origin, or an individual with a disability. Title VII also prohibits discrimination because of participation in schools or places of worship associated with a particular racial, ethnic, or religious group.

Employers are required to post [notices](#) to all employees advising them of their rights under the laws EEOC enforces and their right to be free from retaliation. Such notices must be accessible, as needed, to persons with visual or other disabilities that affect reading.

*Note: Many states and municipalities also have enacted protections against discrimination and harassment based on sexual orientation, status as a parent, marital status and political affiliation. For information, please [contact the EEOC District Office nearest you](#).*

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## Other Discriminatory Practices Under Federal EEO Laws

## Title VII

National Origin Discrimination Title VII prohibits not only intentional discrimination, but also practices that have the effect of discriminating against individuals because of their race, color, national origin, religion, or sex.

- It is illegal to discriminate against an individual because of birthplace, ancestry, culture, or linguistic characteristics common to a specific ethnic group.
- A rule requiring that employees speak only English on the job may violate Title VII unless an employer shows that the requirement is necessary for conducting business. If the employer believes such a rule is necessary, employees must be informed when English is required and the consequences for violating the rule.

The Immigration Reform and Control Act (IRCA) of 1986 requires employers to assure that employees hired are legally authorized to work in the U.S. However, an employer who requests employment verification only for individuals of a particular national origin, or individuals who appear to be or sound foreign, may violate both Title VII and IRCA; verification must be obtained from all applicants and employees. Employers who impose citizenship requirements or give preferences to U.S. citizens in hiring or employment opportunities also may violate IRCA.

*Additional information about IRCA may be obtained from the Office of Special Counsel for Immigration-Related Unfair Employment Practices at 1-800-255-7688 (voice), 1-800-237-2515 (TTY for employees/applicants) or 1-800-362-2735 (TTY for employers) or at <http://www.usdoj.gov/crt/osc>.*

## Religious Accommodation

- An employer is required to reasonably accommodate the religious belief of an employee or prospective employee, unless doing so would impose an undue hardship.

## Sex Discrimination

Title VII's broad prohibitions against sex discrimination specifically cover:

- Sexual Harassment - This includes practices ranging from direct requests for sexual favors to workplace conditions that create a hostile environment for persons of either gender, including same sex harassment. (The "hostile environment" standard also applies to harassment on the bases of race, color, national origin, religion, age, and disability.)

- Pregnancy Based Discrimination - Pregnancy, childbirth, and related medical conditions must be treated in the same way as other temporary illnesses or conditions.

*Additional rights are available to parents and others under the Family and Medical Leave Act (FMLA), which is enforced by the U.S. Department of Labor. For information on the FMLA, or to file an FMLA complaint, individuals should contact the nearest office of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The Wage and Hour Division is listed in most telephone directories under U.S. Government, Department of Labor or at [http://www.dol.gov/esa/public/whd\\_org.htm](http://www.dol.gov/esa/public/whd_org.htm).*

## Age Discrimination in Employment Act

The ADEA's broad ban against age discrimination also specifically prohibits:

- statements or specifications in job notices or advertisements of age preference and limitations. An age limit may only be specified in the rare circumstance where age has been proven to be a *bona fide* occupational qualification (BFOQ);
- discrimination on the basis of age by apprenticeship programs, including joint labor-management apprenticeship programs; and
- denial of benefits to older employees. An employer may reduce benefits based on age only if the cost of providing the reduced benefits to older workers is the same as the cost of providing benefits to younger workers.

## Equal Pay Act

The [Equal Pay Act](#) (EPA) prohibits discrimination on the basis of sex in the payment of wages or benefits, where men and women perform work of similar skill, effort, and responsibility for the same employer under similar working conditions.

Note that:

- Employers may not reduce wages of either sex to equalize pay between men and women.
- A violation of the EPA may occur where a different wage was/is paid to a person who worked in the same job before or after an employee of the opposite sex.
- A violation may also occur where a labor union causes the employer to violate the law.

## Titles I and V of the Americans with Disabilities Act

The ADA prohibits discrimination on the basis of disability in all employment practices. It is necessary to understand several important ADA definitions to know who is protected by the law and what constitutes illegal discrimination:

#### Individual with a Disability

An individual with a disability under the ADA is a person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. Major life activities are activities that an average person can perform with little or no difficulty such as walking, breathing, seeing, hearing, speaking, learning, and working.

#### Qualified Individual with a Disability

A qualified employee or applicant with a disability is someone who satisfies skill, experience, education, and other job-related requirements of the position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of that position.

#### Reasonable Accommodation

Reasonable accommodation may include, but is not limited to, making existing facilities used by employees readily accessible to and usable by persons with disabilities; job restructuring; modification of work schedules; providing additional unpaid leave; reassignment to a vacant position; acquiring or modifying equipment or devices; adjusting or modifying examinations, training materials, or policies; and providing qualified readers or interpreters. Reasonable accommodation may be necessary to apply for a job, to perform job functions, or to enjoy the benefits and privileges of employment that are enjoyed by people without disabilities. An employer is not required to lower production standards to make an accommodation. An employer generally is not obligated to provide personal use items such as eyeglasses or hearing aids.

#### Undue Hardship

An employer is required to make a reasonable accommodation to a qualified individual with a disability unless doing so would impose an undue hardship on the operation of the employer's business. Undue hardship means an action that requires significant difficulty or expense when considered in relation to factors such as a business' size, financial resources, and the nature and structure of its operation.

#### Prohibited Inquiries and Examinations

Before making an offer of employment, an employer may not ask job applicants about the existence, nature, or severity of a disability. Applicants may be asked about their ability to perform job functions. A job offer may be conditioned on the results of a medical examination, but only if the examination is required for all entering employees in

the same job category. Medical examinations of employees must be job-related and consistent with business necessity.

#### Drug and Alcohol Use

Employees and applicants currently engaging in the illegal use of drugs are not protected by the ADA when an employer acts on the basis of such use. Tests for illegal use of drugs are not considered medical examinations and, therefore, are not subject to the ADA's restrictions on medical examinations. Employers may hold individuals who are illegally using drugs and individuals with alcoholism to the same standards of performance as other employees.

#### The Civil Rights Act of 1991

The [Civil Rights Act of 1991](#) made major changes in the federal laws against employment discrimination enforced by EEOC. Enacted in part to reverse several Supreme Court decisions that limited the rights of persons protected by these laws, the Act also provides additional protections. The Act authorizes compensatory and punitive damages in cases of intentional discrimination, and provides for obtaining attorneys' fees and the possibility of jury trials. It also directs the EEOC to expand its technical assistance and outreach activities.

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## Employers And Other Entities Covered By EEO Laws

[Title VII of the Civil Rights Act of 1964](#) and the [Americans with Disabilities Act](#) (ADA) cover all private employers, state and local governments, and education institutions that employ 15 or more individuals. These laws also cover private and public employment agencies, labor organizations, and joint labor management committees controlling apprenticeship and training.

The [Age Discrimination in Employment Act](#) (ADEA) covers all private employers with 20 or more employees, state and local governments (including school districts), employment agencies and labor organizations.

The [Equal Pay Act](#) (EPA) covers all employers who are covered by the Federal Wage and Hour Law (the Fair Labor Standards Act). Virtually all employers are subject to the provisions of this Act.

#### Multinational Employers

U.S.-based companies that employ U.S. citizens outside the United States or its territories, and multinational employers that operate in the United States or its territories, are covered under EEO laws, with certain exceptions. For answers to common questions about how EEO laws apply to multinational employers, please see:

- [The Equal Employment Opportunity Responsibilities of Multinational Employers](#)
- [Employee Rights When Working for Multinational Employers](#)

## Federal Government

Title VII, the ADEA, and the EPA also cover the federal government. In addition, the federal government is covered by [Sections 501 and 505 of the Rehabilitation Act of 1973](#), as amended, which incorporate the requirements of the ADA. However, different procedures are used for processing complaints of federal discrimination. For more information on how to file a complaint of federal discrimination, contact the EEO office of the federal agency where the alleged discrimination occurred.

The Civil Service Reform Act of 1978 (not enforced by EEOC) covers most federal agency employees except employees of a government corporation, the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and as determined by the President, any executive agency or unit thereof, the principal function of which is the conduct of foreign intelligence or counterintelligence activities, or the General Accounting Office.

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## Disability Discrimination

Title I of the [Americans with Disabilities Act of 1990](#) prohibits private employers, state and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment. The ADA covers employers with 15 or more employees, including state and local governments. It also applies to employment agencies and to labor organizations. The ADA's nondiscrimination standards also apply to federal sector employees under section 501 of the Rehabilitation Act, as amended, and its implementing rules.

An individual with a disability is a person who:

- Has a physical or mental impairment that substantially limits one or more major life activities;
- Has a record of such an impairment; or

- Is regarded as having such an impairment.

A qualified employee or applicant with a disability is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question. Reasonable accommodation may include, but is not limited to:

- Making existing facilities used by employees readily accessible to and usable by persons with disabilities.
- Job restructuring, modifying work schedules, reassignment to a vacant position;
- Acquiring or modifying equipment or devices, adjusting or modifying examinations, training materials, or policies, and providing qualified readers or interpreters.

An employer is required to make a reasonable accommodation to the known disability of a qualified applicant or employee if it would not impose an "undue hardship" on the operation of the employer's business. Undue hardship is defined as an action requiring significant difficulty or expense when considered in light of factors such as an employer's size, financial resources, and the nature and structure of its operation.

An employer is not required to lower quality or production standards to make an accommodation; nor is an employer obligated to provide personal use items such as glasses or hearing aids.

Title I of the ADA also covers:

- **Medical Examinations and Inquiries**  
Employers may not ask job applicants about the existence, nature, or severity of a disability. Applicants may be asked about their ability to perform specific job functions. A job offer may be conditioned on the results of a medical examination, but only if the examination is required for all entering employees in similar jobs. Medical examinations of employees must be job related and consistent with the employer's business needs.
- **Drug and Alcohol Abuse**  
Employees and applicants currently engaging in the illegal use of drugs are not covered by the ADA when an employer acts on the basis of such use. Tests for illegal drugs are not subject to the ADA's restrictions on medical examinations. Employers may hold illegal drug users and alcoholics to the same performance standards as other employees.

It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on disability or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under the ADA.

# The ADA: Your Employment Rights as an Individual With a Disability

[The Americans with Disabilities Act of 1990](#) (ADA) makes it unlawful to discriminate in employment against a qualified individual with a disability. The ADA also outlaws discrimination against individuals with disabilities in State and local government services, public accommodations, transportation and telecommunications. This booklet explains the part of the ADA that prohibits job discrimination. This part of the law is enforced by the U.S. Equal Employment Opportunity Commission and State and local civil rights enforcement agencies that work with the Commission.

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## What Employers Are Covered by the ADA?

Job discrimination against people with disabilities is illegal if practiced by:

- private employers,
- state and local governments,
- employment agencies,
- labor organizations,
- and labor-management committees.

The part of the ADA enforced by the EEOC outlaws job discrimination by:

- all employers, including State and local government employers, with 25 or more employees after July 26, 1992, and
- all employers, including State and local government employers, with 15 or more employees after July 26, 1994.

Another part of the ADA, enforced by the U.S. Department of Justice, prohibits discrimination in State and local government programs and activities, including discrimination by all State and local governments, regardless of the number of employees, after January 26, 1992.

Because the ADA establishes overlapping responsibilities in both EEOC and DOJ for employment by State and local governments, the Federal enforcement effort is coordinated by EEOC and DOJ to avoid duplication in investigative and enforcement activities. In addition, since some private and governmental employers are already covered by nondiscrimination and affirmative action requirements under the Rehabilitation Act of 1973, EEOC, DOJ, and the Department of Labor similarly coordinate the enforcement effort under the ADA and the Rehabilitation Act.

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## Are You Protected by The ADA?

If you have a disability and are qualified to do a job, the ADA protects you from job discrimination on the basis of your disability. Under the ADA, you have a disability if you have a physical or mental impairment that substantially limits a major life activity. The ADA also protects you if you have a history of such a disability, or if an employer believes that you have such a disability, even if you don't.

To be protected under the ADA, you must have, have a record of, or be regarded as having a substantial, as opposed to a minor, impairment. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, walking, breathing, performing manual tasks, caring for oneself, learning or working.

If you have a disability, you must also be qualified to perform the essential functions or duties of a job, with or without reasonable accommodation, in order to be protected from job discrimination by the ADA. This means two things. First, you must satisfy the employer's requirements for the job, such as education, employment experience, skills or licenses. Second, you must be able to perform the essential functions of the job with or without reasonable accommodation. Essential functions are the fundamental job duties that you must be able to perform on your own or with the help of a reasonable accommodation. An employer cannot refuse to hire you because your disability prevents you from performing duties that are not essential to the job.

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## What is Reasonable Accommodation?

Reasonable accommodation is any change or adjustment to a job or work environment that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities. For example, reasonable accommodation may include:

- providing or modifying equipment or devices,
- job restructuring,
- part-time or modified work schedules,
- reassignment to a vacant position,
- adjusting or modifying examinations, training materials, or policies,
- providing readers and interpreters, and
- making the workplace readily accessible to and usable by people with disabilities.

An employer is required to provide a reasonable accommodation to a qualified applicant or employee with a disability unless the employer can

show that the accommodation would be an undue hardship -- that is, that it would require significant difficulty or expense.

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## What Employment Practices are Covered?

The ADA makes it unlawful to discriminate in all employment

- practices such as:
- recruitment
- firing
- hiring
- training
- job assignments
- promotions
- pay
- benefits
- lay off
- leave
- all other employment related activities.

It is also unlawful for an employer to retaliate against you for asserting your rights under the ADA. The Act also protects you if you are a victim of discrimination because of your family, business, social or other relationship or association with an individual with a disability.

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## Can an Employer Require Medical Examinations or Ask Questions About a Disability?

If you are applying for a job, an employer cannot ask you if you are disabled or ask about the nature or severity of your disability. An employer can ask if you can perform the duties of the job with or without reasonable accommodation. An employer can also ask you to describe or to demonstrate how, with or without reasonable accommodation; you will perform the duties of the job.

An employer cannot require you to take a medical examination before you are offered a job. Following a job offer, an employer can condition the offer on your passing a required medical examination, but only if all entering employees for that job category have to take the examination. However, an employer cannot reject you because of information about your disability revealed by the medical examination, unless the reasons for rejection are job-related and necessary for the conduct of the employer's business. The

employer cannot refuse to hire you because of your disability if you can perform the essential functions of the job with an accommodation. Once you have been hired and started work, your employer cannot require that you take a medical examination or ask questions about your disability unless they are related to your job and necessary for the conduct of your employer's business. Your employer may conduct voluntary medical examinations that are part of an employee health program, and may provide medical information required by State workers' compensation laws to the agencies that administer such laws.

The results of all medical examinations must be kept confidential, and maintained in separate medical files.

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## Do Individuals Who Use Drugs Illegally Have Rights Under the ADA?

Anyone who is currently using drugs illegally is not protected by the ADA and may be denied employment or fired on the basis of such use. The ADA does not prevent employers from testing applicants or employees for current illegal drug use.

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## What Do I Do If I Think That I'm Being Discriminated Against?

If you think you have been discriminated against in employment on the basis of disability after July 26, 1992, you should contact the U.S. Equal Employment Opportunity Commission. A charge of discrimination generally must be filed within 180 days of the alleged discrimination. You may have up to 300 days to file a charge if there is a State or local law that provides relief for discrimination on the basis of disability. However, to protect your rights, it is best to contact EEOC promptly if discrimination is suspected.

You may file a charge of discrimination on the basis of disability by contacting any EEOC field office, located in cities throughout the United States. If you have been discriminated against, you are entitled to a remedy that will place you in the position you would have been in if the discrimination had never occurred. You may be entitled to hiring, promotion, reinstatement, back pay, or reasonable accommodation, including reassignment. You may also be entitled to attorneys fees.

While the EEOC can only process ADA charges based on actions occurring on or after July 26, 1992, you may already be protected by State or local laws or by other current federal laws. EEOC field offices can refer you to the agencies that enforce those laws.

To contact the EEOC, look in your telephone directory under "U.S. Government." For information and instructions on reaching your local office, call:

- (800) 669-4000 (Voice)
- (800) 669-6820 (TDD)
- (In the Washington, D.C. 202 Area Code, call 202-663-4900 (voice) or 202-663-4494 (TDD).)

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## Can I Get Additional ADA Information and Assistance?

The EEOC conducts an active technical assistance program to promote voluntary compliance with the ADA. This program is designed to help people with disabilities understand their rights and to help employers understand their responsibilities under the law.

In January 1992, EEOC published a Technical Assistance Manual, providing practical application of legal requirements to specific employment activities, with a directory of resources to aid compliance. EEOC publishes other educational materials, provides training on the law for people with disabilities and for employers, and participates in meetings and training programs of other organizations. EEOC staff also will respond to individual requests for information and assistance. The Commission's technical assistance program is separate and distinct from its enforcement responsibilities. Employers who seek information or assistance from the Commission will not be subject to any enforcement action because of such inquiries.

The Commission also recognizes that differences and disputes about ADA requirements may arise between employers and people with disabilities as a result of misunderstandings. Such disputes frequently can be resolved more effectively through informal negotiation or mediation procedures, rather than through the formal enforcement process of the ADA. Accordingly, EEOC will encourage efforts of employers and individuals with disabilities to settle such differences through alternative methods of dispute resolution, providing that such efforts do not deprive any individual of legal rights provided by the statute.

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## More Questions and Answers About the ADA

**Q. Is an employer required to provide reasonable accommodation when I apply for a job?**

A. Yes. Applicants, as well as employees, are entitled to reasonable accommodation. For example, an employer may be required to provide a sign language interpreter during a job interview for an applicant who is deaf or hearing impaired, unless to do so would impose an undue hardship.

**Q. Should I tell my employer that I have a disability?**

A. If you think you will need a reasonable accommodation in order to participate in the application process or to perform essential job functions, you should inform the employer that an accommodation will be needed. Employers are required to provide reasonable accommodation only for the physical or mental limitations of a qualified individual with a disability of which they are aware. Generally, it is the responsibility of the employee to inform the employer that an accommodation is needed.

**Q. Do I have to pay for a needed reasonable accommodation?**

A. No. The ADA requires that the employer provide the accommodation unless to do so would impose an undue hardship on the operation of the employer's business. If the cost of providing the needed accommodation would be an undue hardship, the employee must be given the choice of providing the accommodation or paying for the portion of the accommodation that causes the undue hardship.

**Q. Can an employer lower my salary or pay me less than other employees doing the same job because I need a reasonable accommodation?**

A. No. An employer cannot make up the cost of providing a reasonable accommodation by lowering your salary or paying you less than other employees in similar positions.

**Q. Does an employer have to make non-work areas used by employees, such as cafeterias, lounges, or employer-provided transportation accessible to people with disabilities?**

A. Yes. The requirement to provide reasonable accommodation covers all services, programs, and non-work facilities provided by the employer. If making an existing facility accessible would be an undue hardship, the employer must provide a comparable facility that will enable a person with a disability to enjoy benefits and privileges of employment similar to those enjoyed by other employees, unless to do so would be an undue hardship.

**Q. If an employer has several qualified applicants for a job, is the employer required to select a qualified applicant with a disability over other applicants without a disability?**

A. No. The ADA does not require that an employer hire an applicant with a disability over other applicants because the person has a disability. The ADA

only prohibits discrimination on the basis of disability. It makes it unlawful to refuse to hire a qualified applicant with a disability because he is disabled or because a reasonable accommodation is required to make it possible for this person to perform essential job functions.

**Q. Can an employer refuse to hire me because he believes that it would be unsafe, because of my disability, for me to work with certain machinery required to perform the essential functions of the job?**

A. The ADA permits an employer to refuse to hire an individual if she poses a direct threat to the health or safety of herself or others. A direct threat means a significant risk of substantial harm. The determination that there is a direct threat must be based on objective, factual evidence regarding an individual's present ability to perform essential functions of a job. An employer cannot refuse to hire you because of a slightly increased risk or because of fears that there might be a significant risk sometime in the future. The employer must also consider whether a risk can be eliminated or reduced to an acceptable level with a reasonable accommodation.

**Q. Can an employer offer a health insurance policy that excludes coverage for pre-existing conditions?**

A. Yes. The ADA does not affect pre-existing condition clauses contained in health insurance policies even though such clauses may adversely affect employees with disabilities more than other employees.

**Q. If the health insurance offered by my employer does not cover the entire medical expenses related to my disability, does the company have to obtain additional coverage for me?**

A. No. The ADA only requires that an employer provide employees with disabilities equal access to whatever health insurance coverage is offered to other employees.

**Q. I think I was discriminated against because my wife is disabled. Can I file a charge with the EEOC?**

A. Yes. The ADA makes it unlawful to discriminate against an individual, whether disabled or not, because of a relationship or association with an individual with a known disability.

**Q. Are people with AIDS covered by the ADA?**

A. Yes. The legislative history indicates that Congress intended the ADA to protect persons with AIDS and HIV disease from discrimination.

For more specific information about ADA requirements affecting employment contact:

**Equal Employment Opportunity Commission**

1801 L Street, NW  
Washington, DC 20507  
(800) 669-4000 (Voice), (800) 669-6820 (TDD)  
(202) 663-4900 (Voice - for 202 Area Code)  
(202) 663-4494 (TDD - for 202 Area Code)

For more specific information about ADA requirements affecting public accommodations and State and local government services contact:

**Department of Justice**

Office on the Americans with Disabilities Act  
Civil Rights Division  
P.O. Box 66118  
Washington, DC 20035-6118  
(202) 514-0301 (Voice)  
(202) 514-0381 (TDD)  
(202) 514-0383 (TDD)

For more specific information about requirements for accessible design in new construction and alterations contact:

**Architectural and Transportation Barriers  
Compliance Board**

1111 18th Street, NW  
Suite 501  
Washington, DC 20036  
800-USA-ABLE  
800-USA-ABLE (TDD)

For more specific information about ADA requirements affecting transportation contact:

**Department of Transportation**

400 Seventh Street, SW  
Washington, DC 20590  
(202) 366-9305  
(202) 755-7687 (TDD)

For more specific information about ADA requirements for telecommunications contact:  
Federal Communications Commission 1919 M Street, NW Washington, DC 20554 (202) 634-1837 (202) 632-1836 (TDD)

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## Facts About Mediation

Mediation is a form of Alternative Dispute Resolution (ADR) that is offered by the U.S. Equal Employment Opportunity Commission (EEOC) as an alternative to the traditional investigative or litigation process. Mediation is an informal process in which a neutral third party assists the opposing parties to reach a voluntary, negotiated resolution of a charge of discrimination. The

decision to mediate is completely voluntary for the charging party and the employer. Mediation gives the parties the opportunity to discuss the issues raised in the charge, clear up misunderstandings, determine the underlying interests or concerns, find areas of agreement and, ultimately, to incorporate those areas of agreements into resolutions. A mediator does not resolve the charge or impose a decision on the parties. Instead, the mediator helps the parties to agree on a mutually acceptable resolution. The mediation process is strictly confidential. Information disclosed during mediation will not be revealed to anyone, including other EEOC employees.

## How Mediation Works

An EEOC representative will contact the employee and employer concerning their participation in the program. If both parties agree, a mediation session conducted by a trained and experienced mediator is scheduled. While it is not necessary to have an attorney in order to participate in EEOC's Mediation Program, either party may choose to do so. It is important that persons attending the mediation session have the authority to resolve the dispute. If mediation is unsuccessful, the charge is investigated like any other charge.

## Advantages of Mediation

- **Free:** Mediation is available at no cost to the parties.
- **Fair and Neutral:** Parties have an equal say in the process and decide settlement terms, not the mediator. There is no determination of guilt or innocence in the process.
- **Saves Time and Money:** Mediation usually occurs early in the charge process, and much mediation is completed in one meeting. Legal or other representation is optional but not required.
- **Confidential:** All parties sign a confidentiality agreement. Information disclosed during mediation will not be revealed to anyone, including other EEOC investigative or legal staff.
- **Avoids Litigation:** Lengthy litigation CAN be avoided. Mediation costs less than a lawsuit and avoids the uncertainty of judicial outcome.
- **Fosters Cooperation:** Mediation fosters a problem solving approach to complaints and workplace disruptions are reduced. With investigation, even if the charge is dismissed by EEOC, the underlying problems may remain, affecting others in the workforce and human resources staff.
- **Improves Communication:** Mediation provides a neutral and confidential setting where both parties can openly discuss their views on the underlying dispute. Enhanced communication can lead to mutually satisfactory resolutions.
- **Discover the Real Issues in your Workplace:** Parties share information, which can lead to a better understanding of issues affecting the workplace.

- **Design your own Solution:** A neutral third party assists the parties in reaching a voluntary, mutually beneficial resolution. Mediation can resolve all issues important to the parties, not just the underlying legal dispute.
- **Everyone Wins:** An independent survey showed 96% of all respondents and 91% of all charging parties who used mediation would use it again if offered.

For additional information about the mediation program at EEOC, you may contact the [EEOC field office nearest you](#).

## Little Rock Area Office

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### Filing a Charge with the Little Rock Area Office

If you believe you have been discriminated against by an employer, labor union or employment agency when applying for a job or while on the job because of your race, color, sex, religion, national origin, age, or disability, or believe that you have been discriminated against because of opposing a prohibited practice or participating in an equal employment opportunity matter, you may file a charge of discrimination with the U.S. Equal Employment Opportunity Commission (EEOC). All laws enforced by EEOC, (Title VII of the Civil Rights Act (Title VII), Americans with Disabilities Act (ADA), and Age Discrimination in Employment Act (ADEA), except the Equal Pay Act (EPA), require filing a charge with EEOC before a private lawsuit may be filed in court.

To protect your legal rights, it is always best to contact EEOC promptly when discrimination is suspected. There are strict time limits within which charges must be filed. Please review the information for your state, and the specific charge filing instructions for this office.

#### Timeliness

A charge must be filed with EEOC within 180 days from the date of the alleged violation, in order to protect the charging party's rights.

This 180-day filing deadline may be extended to 300 days if a state or local anti-discrimination law also covers the charge.

These time limits do not apply to claims under the Equal Pay Act, because under that Act persons do not have to first file a charge with EEOC in order to have the right to go to court. However, since many EPA

claims also raise Title VII sex discrimination issues, it may be advisable to file charges under both laws within the time limits indicated.

## Little Rock Area Office Information

An individual has 180 days from the date of alleged harm to file a charge with this office against an employer with 15 or more employees for discrimination based on race, color, national origin, sex, religion, and/or disability in the state of Arkansas. An individual has 180 days from the date of alleged harm to file a charge with this office against an employer with 20 or more employees for discrimination based on age in the state of Arkansas.

To protect your legal rights, it is always best to contact EEOC promptly when discrimination is suspected.

### Charge Filing Procedures for the Little Rock Area Office

The Little Rock office's hours of operation are from 8:00 a.m. to 4:30 p.m. Monday through Friday. If you have an employment discrimination question or if you wish to file a charge, please call the Little Rock office at 501-324-5060 or 501-324-5481 (TTY). The toll free numbers are 1-800-669-4000 or 1-800-669-6820 (TTY). You may also write the office at 820 Louisiana Street, Suite 200, Little Rock, AR 72201.

The EEOC has outreach locations throughout the state of Arkansas for people filing a charge outside the city of Little Rock. The outreach locations are El Dorado, Fort Smith, Fayetteville, Jonesboro, Forrest City, Russellville and Texarkana. An EEOC investigator visits these outreach locations once a month to investigate employment discrimination charges filed by the complainants.

It is advisable to contact the office to verify that EEOC has jurisdiction prior to scheduling an appointment prior to visiting the office to file a charge in person. In an effort to provide better customer service, EEOC staff may conduct either an interview in the EEOC office or a telephone interview. Although less time may be required, please allow at least 1 to 2 hours for an office visit. To avoid delay, please let the office know beforehand if you need special assistance, such as an interpreter, to file a charge.

An EEOC representative to determine whether the laws EEOC enforces cover your employment experiences initially screens individuals who are interested in filing charges of discrimination. The EEOC representative will ask questions about your allegations, about the evidence available to support the allegations, and about jurisdiction (whether the charge is

timely, and the employer, charging party and subject matter are covered under the statutes enforced by EEOC).

Our staff will advise you whether your employment concern is covered by EEOC. If it is not covered, you will be provided with information on where you might receive assistance. If covered by EEOC, you will be advised on the procedures for filing a charge of employment discrimination with EEOC.

When filing a charge with EEOC, individuals should be prepared to provide the following information:

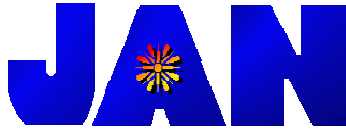
1. The name, address, and telephone number of the person filing the charge;
2. The name, address, and telephone number of the company, employment agency, or union that the charge is filed against, and the number of employees (or union members), if known;
3. A short description of the event(s) with supporting documentation (if any) which caused the person filing the charge to believe that his or her rights were violated;
4. The date(s) the event(s) took place;
5. The names, addresses, and telephone numbers of any witnesses;
6. Whether the individual has filed the same or similar charge with a state or local fair employment practice agency; and
7. The name, address, and telephone number of a person who always knows where to contact the person wishing to file a charge.

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## Little Rock Area Office

**Location:** 820 Louisiana Street  
Suite 200  
Little Rock, Arkansas 72201  
**Phone:** 501-324-5060 *or* 1-800-669-4000  
**Fax:** 501-324-5991  
**TTY:** 501-324-5481 *or* 1-800-669-6820

**Office Hours:** The Little Rock Area Office is open Monday-Friday from 8:00 a.m. - 4:30 p.m. Please call first to obtain information on scheduling an appointment.



## Ideas for Writing an Accommodation Request Letter

Job Accommodation Network

1-800-526-7234 (V/TTY)

<http://www.jan.wvu.edu>

A service of the [Office of Disability Employment Policy](#) of the U.S. Department of Labor

By [Linda Carter Batiste, MS](#)

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### [Preface](#)

The Americans with Disabilities Act of 1990 (ADA) requires employers to provide reasonable accommodation to qualified employees and applicants with disabilities, unless such accommodations would pose an undue hardship (e.g. too costly, too extensive, too substantial, too disruptive). In general, the applicant or employee with a disability is responsible for letting the employer know that an accommodation is needed to participate in the application process, to perform essential job functions, or to receive equal benefits and privileges of employment. Employers are not required to provide accommodations if they are not aware of the need.

According to the Equal Employment Opportunity Commission (EEOC), the federal agency charged with enforcing the ADA, an accommodation request does not have to be in writing. However, the EEOC suggests that individuals with disabilities might find it useful to document accommodation requests in the event there is a dispute about whether or when they requested accommodation. One way to document an accommodation request is to make a written request.

The ADA does not include specific guidelines or forms for requesting reasonable accommodation. However, some employers have developed in-house forms. If so, employees should use the employer's forms for requesting accommodation. Otherwise, individuals with disabilities can use any method that is effective; the ADA does not require specific language or format. The following information provides an example of an accommodation request letter. Please note that the information is to be used as a guide only and is not legal advice. If legal advice is needed, contact a legal service.

For additional information regarding the ADA and reasonable accommodation, contact the Job Accommodation Network at 800-ADA-WORK or visit our web site at <http://www.jan.wvu.edu>.

## Sample Accommodation Request Letter

The following is an example of what can be included in an accommodation request letter and is not intended to be legal advice.

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Date of Letter

Your name  
Your address

Employers name  
Employer's address

Dear (e.g. Supervisor, Manager, Human Resources, Personnel):

Content to consider in body of letter:

- Identify yourself as a person with a disability
- State that you are requesting accommodations under the ADA
- Identify your specific problematic job tasks
- Identify your accommodation ideas
- Request your employer's accommodation ideas
- Refer to attached medical documentation if appropriate\*
- Ask that your employer respond to your request in a reasonable amount of time

Sincerely,

Your signature  
Your printed name

Cc: to appropriate individuals

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▶ You may want to attach medical information to your letter to help establish that you are a person with a disability and to document the need for accommodation.

Sample Letter:

Use this letter to ask for any *disability-related help* (accommodation) from your employer

September 24, 2001

Mr. / Ms. \_\_\_\_ (Put name of manager here)  
Company Name  
Address

Dear Mr. / Ms. \_\_\_\_:

I have worked at \_\_\_\_ (Company Name) in the \_\_\_\_ Department since \_\_\_\_, 2000 and am writing to request that you provide \_\_\_\_ (list accommodation needed here) \_\_\_\_\_ as a reasonable accommodation. I have a disability, \_\_\_\_\_ (disability here) \_\_\_\_\_, and need this accommodation to successfully do my job.

For more information about my rights and your responsibilities under the Americans with Disabilities Act, I am enclosing a handout, which explains this in more detail. You can also call either the Job Accommodation Network at 1-800-526-7234 or the Great Lakes Disability and Business Technical Assistance Center at 1-800-949-4232 for more information, free of charge.

If you have any questions about my request you can contact me in writing or by phone. However, I would appreciate a written response to this letter. Thank you very much.

Sincerely,

Your name  
Your full address  
Your phone number

Sample Letter: Use this letter to ask for a copy of your *personnel file* from your employer

September 24, 2001

Put **name** and **address** of Director of Personnel or Human Resources here

Dear Mr./Ms. \_\_\_\_\_:

I have been an employee of \_\_\_\_\_ (Company Name) since \_\_\_\_\_, 2000. I need a complete copy of my personnel record. Please let me know when I can pick up the copies or, if you prefer, please have the copies sent to my work site or mailed to my home address, listed below.

If you have any questions about my request you can contact me in writing or by phone. Thank you very much.

Sincerely,

**Your name**

**Your full address**

**Your phone number**