

Hiring Attorneys with Disabilities

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THE MYTHS

Common Misconceptions

- Hiring a person with a disability is too expensive!
 - One-fifth cost nothing
 - > Half cost between \$1 & \$500
 - Technology continues to drive down costs
 - Some employees provide their own assistive devices

Common Misconceptions

- Hiring a person with a disability is too expensive!
- My clients are not going to feel comfortable.
- He or she will not be able to do the work.
- Courts will not provide accommodations.

Common Misconceptions

- Higher absenteeism
- Higher turnover rates
- Higher Workers Comp Rates/Premiums

THE LAW

The Law

- Americans with Disabilities Act (ADA)
- ADA Amendments Act of 2008 (ADAAA)

The Law

- Americans with Disabilities Act (ADA / ADAAA)

Protects people with disabilities from discrimination in:

Employment

Programs/activities offered by state/local government

Access to goods/services in public

The Law

- Americans with Disabilities Act (ADA)

Title I of the ADA:

Requires employers to provide reasonable accommodations for qualified applicants and employees with disabilities

(free copy of Title I of the ADA at
<http://www.eeoc.gov/policy/ada.html>)

The Law

- **Who is “disabled?”**
 - physical or mental impairment that substantially limits a major life activity
 - record or history of a substantially limiting impairment, or
 - regarded or perceived by an employer as having a substantially limiting impairment.

The Law

- **Applicant / Employee must meet job requirements**
 - Education, training, employment experience, skills, licensure, etc., **and**
 - Perform essential functions of the job on their own or with the help of “reasonable accommodation.”

The Law

- **Employer does not have to provide a reasonable accommodation that will cause “undue hardship.”**
- Significant difficulty or expense.

The Law

- **Reasonable accommodation during the hiring process**
 - Written materials in accessible format (*i.e.*, large print, braille, audiotape)
 - Reader or sign language interpreter
 - Accessible location
 - Adjusting application policies/procedures

The Law

- **Specific requested accommodation is *not* required**
- Accommodation must meet the needs of the applicant – but employer may offer a different accommodation that what may be the applicant's preferred accommodation

The Law

- **Discussing Disability with Potential Employer**
 - Employer prohibited from asking questions that are likely to reveal the existence of a disability before making a job offer (pre-offer period).
 - Applies to questionnaires, during interviews, medical examinations
 - Permitted after extending offer (post-offer)

The Law

- **Pre-offer prohibition examples:**
 - Do you have a heart condition?
 - Do you have a disability which would interfere with your ability to perform job?
 - How many days were you sick last year?
 - What prescription drugs do you take?

The Law

- **Post-offer withdrawal prohibited based on disclosure of disability – *unless employer shows:***
 - You are unable to perform the essential functions of the job – with or without reasonable accommodation, or
 - You pose a significant risk of causing substantial harm to yourself or others.

The Law

- **Confidentiality**
 - ADA has strict confidentiality requirements whether info was
 - Voluntarily disclosed, or
 - Disclosed in response to employer's oral or written questions, or during a medical examination.

The Law

- **Confidentiality**
 - Medical information CAN be shared with other hiring decision-makers
 - Supervisors/managers
 - Safety personnel
 - Government investigators
 - Workers' comp offices / insurance carriers

The Law

- **Other accommodation-responsible parties :**
 - Court systems and other government entities have obligations to provide accommodations for all participants in programs of such entities. - **Title II**
 - Public accommodations (*e.g.*, seminars) have obligations to provide accommodations. - **Title III**

The Law

- **Direct Benefits Post Accommodation**
 - 90% Retained Valuable Employee
 - 71% Increased Employee Productivity
 - 60% Eliminated New-Hire Costs
 - 42% Increased Company Diversity

<http://askjan.org/media/LowCostHighImpact.doc>

(September 1, 2012)

The Law

- **Indirect Benefits Post Accommodation**
 - 66% Improved Coworker Interactions
 - 61% Improved Company Morale
 - 57% Increased Overall Productivity
 - 31% Increased Profitability

<http://askjan.org/media/LowCostHighImpact.doc>

(September 1, 2012)

Tax Benefits

- **Disabled Access Credit**
 - Tax Credit of 50% of \$10,000 paid for modifications or accommodations for persons with disabilities
 - Limitations
 - gross receipts for the preceding tax year that did not exceed \$1 million *or*
 - no more than 30 full-time employees

Tax Benefits

- **The Architectural Barrier Removal Tax Deduction**
 - For any size entity to remove architectural and transportation barriers
 - deduction of up to \$15,000 a year for qualified expenses for items that normally must be capitalized

Hot Topics

- **Extended Leave as Accommodation**
- **Dogs/animals in the workplace**
- **Fragrance-free workplace**
- **Telecommuting**

THE RESOURCES

Resources

- *U.S. Equal Employment Opportunity Commission* publication discussing “Reasonable Accommodations for Attorneys with Disabilities.”
- <http://www.eeoc.gov/facts/accommodations-attorneys.html>

Resources

- Six page overview of job accommodations that may be useful for lawyers for four (4) impairment categories.
- <http://askjan.org/media/occind.htm>

The image shows the cover of a document titled "Job Accommodations for Lawyers with Disabilities" from the "Effective Accommodation Practices (EAP) Series". At the top, the logo for "JAN Job Accommodation Network" is displayed, with the tagline "Practical Solutions • Workplace Success". The document is published by the "Job Accommodation Network" located at "PO Box 6080, Morgantown, WV 26506-6080". Contact information includes phone numbers (800)526-7234 (V) and (877)781-9403 (TTY), and email addresses jan@askjan.org and askjan.org. The document is a service of the U.S. Department of Labor's Office of Disability Employment Policy (ODEP), which is also represented by a logo in the bottom right corner.

Resources

[http://askjan.org/
media/atoz.htm](http://askjan.org/media/atoz.htm)

The screenshot shows a web browser window displaying the AskJAN website. The page title is "Accommodation Information by Disability: A to Z". The content includes an introductory paragraph about the term "disability" and a list of links organized by letter. A "SOAR" logo is also visible on the right side of the page.

Accommodation Information by Disability: A to Z

The use of the term "disability" in this context does not mean that these conditions are disabilities under the Americans with Disabilities Act (ADA). For more information on the ADA's definition of disability, see: [How to Determine Whether a Person Has a Disability under the Americans with Disabilities Act \(ADA\)](#). Also visit JAN's [ADA Glossary](#) and JAN's [Employers' Practical Guide to Reasonable Accommodation Under the Americans with Disabilities Act \(ADA\)](#).

The links below provide overview information on impairments, as well as accommodation ideas and organizations you can contact.

A	E	O
Addison's Disease	Epilepsy	Obesity
Aging Employees	Essential Tremor	One Hand Use
AIDS/HIV	F	P
Alcoholism	Fetal Alcohol Syndrome (FAS)	Paraplegia
Allergies	Fibromyalgia	Parkinson's Disease
Alzheimer's Disease	Fragrance Sensitivity	Post-Polio Syndrome
Amputation	G	Post-Traumatic Stress Disorder
Amyotrophic Lateral Sclerosis (ALS)/Lou Gehrig's Disease		

SOAR
Searchable Online
Accommodation Resource
AskJAN.org
SHARE THIS WIDGET

Resources

[Home](#) | [Fibromyalgia](#) | [Accommodation Information: A - Z](#) | [Epilepsy](#)

Accommodation Ideas for Epilepsy

- [Accommodation and Compliance Series: Employees with Epilepsy](#)
- [Effective Accommodation Practices Series: Epilepsy](#)
- [EEOC Fact Sheet: Questions and Answers About Epilepsy in the Workplace and ADA](#)
- [Consultants' Corner: Epilepsy, Driving and Employment](#)
- [Organizations](#)

<p>ASK A JAN CONSULTANT</p> <p>JAN provides free, confidential technical assistance about job accommodations and the Americans with Disabilities Act (ADA). Send Us Feedback.</p>	<p>(800)526-7234 (Voice) (877)781-9403 (TTY)</p> <p>Live Help Email</p>
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 A service of the Office of Disability Employment Policy, U.S. Department of Labor
<http://askjan.org/links/faqs.htm>

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Resources

Vocational Rehabilitation (VR)

Each state has a Vocational Rehabilitation office which – among other services – can assist employers with some costs associated with employing a person with a disability.

A directory for VR offices can be found at:

http://wdcrobcolp01.ed.gov/Programs/EROD/org_list.cfm?category_cd=SVR

Resources

9th Annual IMPACT Career Fair for Law Students and Attorneys with Disabilities

Friday, August 9, 2013

Hyatt Regency Crystal City, Washington, D.C.

<http://www.law.arizona.edu/Career/IMPACT/welcome.cfm>

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Hiring Attorneys with Disabilities

Thank you!

2013 Annual Education Conference & Resource Center Exhibition

Tampa, Florida • April 24 - 27