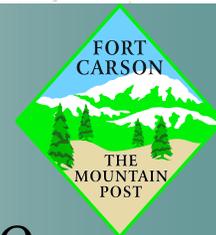


EEO FOCUS



News You Can Use



The Americans With Disabilities Act (ADA) Amendments Act of 2008: Status Update

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October is
Disability
Employment
Awareness
Month

Take Our
Quiz—Test
Your
Knowledge

On September 25, 2008, the President signed the Americans with Disabilities Act Amendments Act of 2008 ("ADA Amendments Act" or "Act"). The Act emphasizes that the definition of disability should be construed in favor of broad coverage of individuals to the maximum extent permitted by the terms of the ADA and generally shall not require extensive analysis.

The Act makes important changes to the definition of the term "disability" by rejecting the holdings in several Supreme Court decisions and portions of EEOC's ADA regulations. The effect of these changes is to make it easier for an individual seeking protection under the ADA to establish that he or she has a disability within the meaning of the ADA.

The Act retains the ADA's basic definition of "disability" as an impairment that substantially limits one or more major life activities, a record of such an impairment, or

being regarded as having such an impairment. However, it changes the way that these statutory terms should be interpreted in several ways. Most significantly, the Act:

- directs EEOC to revise that portion of its regulations defining the term "substantially limits"; expands the definition of "major life activities" by including two non-exhaustive lists:
- the first list includes many activities that the EEOC has recognized (e.g., walking) as well as activities that EEOC has not specifically recognized (e.g., reading, bending, and communicating);
- the second list includes major bodily functions (e.g., "functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological,

brain, respiratory, circulatory, endocrine, and reproductive functions");

- states that mitigating measures other than "ordinary eyeglasses or contact lenses" shall not be considered in assessing whether an individual has a disability;
- clarifies that an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active;
- changes the definition of "regarded as" so that it no longer requires a showing that the employer perceived the individual to be substantially limited in a major life activity, and instead says that an applicant or employee is "regarded as" disabled if he or she is subject to an action prohibited by the ADA (e.g., failure

Test your knowledge on the ADA

1. Under the new ADA, which of the following people must receive reasonable accommodation?

- (A) An epileptic who has an average of 1 seizure a week
- (B) A person with a prosthetic arm
- (C) A woman with asthma
- (D) A and B only
- (E) B only
- (F) A, B and C

2. Which of the following is TRUE of the ADA?

- (A) It is an affirmative action law
- (B) It is an entitlement program
- (C) It mandates prioritizing those with disabilities over those without
- (D) B and C only
- (E) None of the above

Continued from page 1: *The Americans With Disabilities Act*

to hire or termination) based on an impairment that is not transitory and minor; provides that individuals covered only under the "regarded as" are not entitled to reasonable accommodation.

EEOC will be evaluating the impact of these changes on its enforcement guidances and other publications addressing the ADA.

On September 16, 2009, the Commission voted to approve a Notice of Proposed Rulemaking to conform its ADA regulations to the Amend-

ments Act of 2008. The NPRM was published in the Federal Register on 23 September 23, 2009.



Responding to Vague Requests and Inquiries: Engage, Inform, Clarify

A request for a reasonable accommodation does not require any magic words or form. It need not be written, and it does not need to explicitly mention "accommodation" or "disability" or the "ADA." It is enough that an employee tells management that they need some kind of change at work, due to a medical concern. Once an employee has raised such a concern, it is the manager's duty to begin the process of understanding the concern and acting in response to the request. Certainly, no one would encourage an employee to rely on veiled or generalized comments. Employees should be clear and unequivocal about such concerns, but they may not know where to begin, or they may not actually desire to make such a request at this time. It's our duty to find out.

When a person raises medical concerns in a vague manner, the supervisor should engage, inform, and clarify. Engage on two fronts: with the employee and with the Disability Program Manager. Engage the employee right away by simply following up on the conversation. Don't just hope the topic goes away or wait to see if it comes up again. Ask the employee: Do you think you might need something changed or adjusted to address a medical concern? The employee may or may not want to go into any further detail. Either way, this is a perfect time to inform the employee of available processes. Let them know about the agency's reasonable accommodation policy and tell them how to initiate a request. Provide good contact numbers for the Disability Program Manager and other available

resources and provide the employee the form we use to confirm a request for reasonable accommodation. Then clarify with the employee that anyone who intends to request an accommodation must follow up with a written confirmation of the request to the supervisor, who will provide a copy to the Disability Program Manager and follow through on the process of finding ways to make our workplace more accessible and accommodating of legitimate medical concerns. Under normal circumstances, we'll be helping employees access a program we are glad to support. However, vague references to medical concerns sometimes arise in the midst of conflict or discipline, and it is especially unwise to ignore such matters under those conditions.

By Bill Hennessy

Fort Carson, Labor Counsel

Temporary Accommodations...Reasonable Accommodations

Accommodations are supposed to benefit both employers and employees with disabilities by enabling employees to effectively perform the essential functions of their jobs. However, in some situations, when a reasonable accommodation is requested, it is not always possible to make the accommodation immediately. For example, some accommodations may have to be researched, medical documentation may take a while to get, or implement-

ing accommodation may require some time. In these situations, it can be in the best interest of both the employer and employee to consider temporary accommodations. Making temporary accommodations starts with an open dialogue between the employer and employee about the specific tasks that are difficult for the employee at the moment, the limitations that are preventing the employee from performing that are

difficult for the employee at the moment, the limitations that are preventing the employee from performing those tasks, and solutions that can be made quickly on a temporary basis. With a good understanding of the situation, temporary changes may be made to allow the employee to continue being productive while the employer processes the employee's accommodation request.

by Sheryl Grossman, MSW, Consultant,
Self-Employment/Motor Team, JAN
Newsletter Volume 7, Issue 3, 3d Qtr 09

Have You Hired a Veteran Today?

We all know that the federal hiring process can be extremely long. Do you need a highly-trained, well-qualified, extremely dedicated and motivated employee that could start work yesterday? If so, your first call should be to the Fort Carson, Office of Personnel Management Veterans Outreach Representative, Shelley Anderson. Ms. Anderson works in coordination with the Army Career and Alumni Team, and together they assist hundreds of

transitioning service members looking for an opportunity to continue to serve their country in a new uniform. Ms. Anderson primarily works with transitioning service members and Veterans who are eligible for Special Hiring Appointments which enables you, as the hiring manager, to do a by-name selection. These appointments will also result in an expedited hiring action. When you hire a transitioning service or Veteran you get:

* a person who understands duty, honor, and commitment

* a person who knows the cultural and speaks the language of the organization

* a person who has proven their adaptability in times of extreme adversity

Call Ms. Anderson at 526-8908 or email: shelley.anderson1@us.army.mil.

Hire a Veteran Today!

Built-in Accessibility May Be Just What You Need

Do you find it difficult to see the computer screen or to type? If so, you may be surprised to learn about the range of accessibility features built in to your computer to help you work more comfortably and effi-

ciently. To learn about the types of commonly-used accessibility features available for people with vision, hearing and dexterity difficulties, please visit www.microsoft.com/enable/



Test your knowledge on the ADA

3. Employers do not have to provide reasonable accommodations if:

(A) The RAs will substantially cause undue hardship to the organization

(B) Customers complain about the RAs and threaten to withdraw business

(C) A and B

(D) None of the above

4. Under the ADA, the following are advisable interview strategies EXCEPT:

(A) Making the interview location accessible to the applicants with disabilities

(B) Preparing a list of interview questions

(C) Keeping accurate job descriptions

(D) Interviewing those with disabilities first

(E) A, B and C only

(F) All of the above are acceptable

CAP Making it Work for You/ Simple Accommodations

Computer/Electronic Accommodation Program's (CAP) process for determining the best accommodation solution includes your active and informed participation. CAP works with you to identify, evaluate, and select the appropriate modification or adjustment to your work environment that enables you to perform the essential functions of your job. By working with CAP, you are assured of having the same employment rights and privileges as those of people without disabilities.

CAP offers you several ways to learn about the assistive technologies available to improve your capabilities. These technologies, which can be used to maintain, increase, or improve your ability to perform your job or seek employment, are available to accommodate people with all types of disabilities, including both apparent physical disabilities as well as hidden cognitive disabilities.

Assistive technologies ensure that people with disabilities have equal access to the information/electronic and telecommunication work environments.

Start by completing a Needs Assessment.

Choosing appropriate accommodations is best done on a case-by-case basis. It is important to recognize that people with disabilities have different capabilities and varying degrees of disabling conditions. Accommodation needs must be evaluated in light of a person's job functions and technical environment (e.g., workstation configuration). To ensure that the appropriate accommodations will be provided, a needs assessment should be conducted addressing three areas: The Job, The Individual, and The Solution.

Extracted from CAP Website: <http://www.tricare.mil/CAP/>

Some examples of modified work schedules as accommodation:

- A warehouse worker needs a hour of rest twice per week to reduce fatigue associated with arthritis. Being allowed to take extended lunch breaks and to make up that time by working later on those days could be an effective accommodation.
- A data entry worker tends to be productive in the morning hours but slows down considerably during the afternoon due to reduced stamina associated with multiple sclerosis. By allowing reduced hours or a part-time schedule, the employer could expect better productivity than in a longer shift.
- An accountant is chronically late to work whenever experiencing flare-ups of symptoms associated with fibromyalgia. By allowing a flexible start time, the employer can anticipate a full day's work by having the employee report to work later and leaving later on those days.

EEO Training for FY 10

Training Corner:

The EEO Office provides training in Equal Employment Opportunity (EEO) and in the Prevention of Workplace Harassment. Seminars targeting Supervisors and Managers are offered on EEO responsibilities and understanding reasonable accommodation.

Every civilian employee must have training in the Prevention of Workplace Harassment each fiscal year.

Every manager or supervisor of civilian employees must attend an EEO for Managers or Supervisors class each year and are encouraged to also attend specific EEO seminars such as Understanding Reasonable Accommodation.

Theater Style Prevention of Workplace Harassment Training & EEO for Manager/Supervisors:

26 October 2009

10 February 2010

4 May 2010

11 August 2010

at the McMahon Theater at 0800, 1000, and 1300 each day. Pre-registration is not required.

EEO for Managers & Supervisors:

20 Oct 2009, 1200

(EACH, Cochrane Hall)

9 November 2009

4 February 2010

4 March 2020

1 April 2010

3 June 2010

All at 1300 in Building 1118
Room 219

Understanding Reasonable Accommodation:

9 November 2009

4 February 2010

4 March 2010

1 April 2010

3 June 2010

All at 1400 in Bldg 1118
Room 219

If you need assistance with soft skills training such as conflict resolution, communication or team building please call of office for assistance.

ANSWERS TO THE ADA QUIZ:

- | | |
|-------------|-------------|
| 1. F | 2. E |
| 3. A | 4. D |

EEO OFFICE: 1626 Ellis St., Bldg 1118 (Corner of Ellis and Wetzel)