



Guidelines/Procedures

Subject: Employment of Individuals Under the Americans With Disabilities Act

Guideline/Procedure for AR#: 6.01.003

Date Effective: 05/14/2003

PROCEDURES

ACC complies with Title I of the Americans with Disabilities Act of 1990. The Act prohibits discrimination against qualified applicants and employees on the basis of disability.

Who is protected by Title I?

The ADA prohibits employment discrimination against "qualified individuals" with disabilities. A qualified individual with a disability is: an individual with a disability who meets the skill, experience, education, and other job-related requirements of a position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of a job.

With a "disability" is an individual who:

- Has a physical or mental impairment that substantially limits one or more of his/her major life activities;
- Has a record of such an impairment; or
- Is regarded as having such impairment.

Employment Practices Regulated by Title I of the ADA

Employers cannot discriminate against people with disabilities in regard to any employment practices or terms, conditions, and privileges of employment. This prohibition covers all aspects of the employment process, including:

Application	Evaluation	Medical Examinations	Leave
Testing	Compensation	Layoff/Recall	Benefits
Interviewing	Hiring	Training	Termination
Assignments	Promotion	Disciplinary Actions	

REASONABLE ACCOMMODATION

ACC must make a reasonable accommodation to the known physical or mental limitations of a qualified applicant or employee with a disability unless it can show that the accommodation would cause an undue hardship on operations.

Some examples of reasonable accommodation include:

- Making existing facilities used by employees readily accessible to, and usable by, an individual with a disability;
- Job restructuring;
- Modifying work schedules;
- Reassignment to a vacant position;
- Acquiring or modifying equipment or devices;
- Adjusting or modifying examinations, training materials, or policies;
- Providing qualified readers or interpreters.

ACC is not required to lower production standards or provide personal use items such as glasses or hearing aids, as an accommodations.

If a physician statement indicates that a service dog is the preferred accommodation, the Vice President of Human Resources should be consulted. A service dog may be approved as an ADA accommodation with the following guidelines:

1. *The dog must meet the legal definition of a service dog which is as follows:
An assistance animal in training must be accompanied by an approved trainer who is an agent of an organization generally recognized by agencies involved in the rehabilitation of persons who are disabled as reputable and competent to provide training for assistance animals, and/or their handlers. (Texas Code Sec. 121.003 Discrimination Prohibited)*
2. *The dog must be trained and certification of the training must be submitted to the supervisor.*
3. *The verification of training must state what situations/disabilities the dog has been trained to assist with.*
4. *The trainer must be certified.*
5. *The dog must not represent a threat, exhibit violent behavior or impact the health or safety of students, staff or others.*

It is the responsibility of the applicant or employee with a disability to inform the immediate supervisor, in writing, that an accommodation is needed. The employee must also recommend the types of reasonable accommodations that are needed.

Employee Medical Examinations

ADA does not allow you to ask questions about disability or use medical examinations until after you make someone a conditional job offer. A medical examination or Physician's Statement may not be required except under the following conditions:

- There is some evidence of performance problems
- There is a safety problem or concern related to the employee's ability to perform the job expectations
- There is a need to determine whether individuals in physically demanding jobs continue fit for duty
- It is necessary to determine whether the employee can continue to perform the essential functions of their job
- When an employee suffers an injury on the job
- To determine if the individual meets the ADA definition of "individual with a disability" in cases where an accommodation has been requested
- To identify an effective accommodation that would enable the person to perform the essential job functions in a current job or vacant job for which the person is qualified

How does the Supervisor determine what is a reasonable accommodation?

When a qualified individual with a disability requests an accommodation, the immediate supervisor must make an effort to provide an accommodation that is effective for the individual.

In many cases the accommodation will be obvious, but frequently the individual must assist the supervisor by providing recommendations of changes or adjustments needed to ensure the employee's ability to perform the job duties. The supervisor and the individual should work together to identify the appropriate accommodation.

The supervisor should review the job description and job duties and determine the essential functions of the job. Consult with the individual with a disability to find out his or her specific abilities and limitations as they relate to the essential job functions. Secure medical information if it is necessary to make a determination. In consultation with the individual, identify potential accommodations and assess how effective each would be in enabling the individual to perform essential job functions. Consider the proficiency of the individual and select the accommodation that best serves the need of the individual and ACC.

Undue Hardship

ACC must provide a reasonable accommodation if a person with a disability needs to be accommodated in order to apply for a job, perform a job, or enjoy benefits equal to those offered to other employees unless it will impose an undue hardship on the operation of business. Undue hardship is defined by the ADA as an action that is:

“Excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the business.”

Temporary Impairments

Generally, temporary non-chronic impairments that do not last a long time (such as broken limbs, sprains, concussions, appendicitis, etc.) do not qualify as a disability.

Documentation & Confidentiality

When the immediate supervisor and individual agree on a reasonable accommodation, the supervisor should document the agreement terms/conditions, responsibilities, time frame and any other important elements of the agreement. Information can be confidential even if it contains no medical diagnosis or treatment course and even if it is not generated by a health care professional. Medical information must be kept in a separate medical file that is accessible only to designated officials. Medical information stored electronically must be similarly protected. A copy of the memo should be submitted to the next level supervisor and the Associate Vice President, Office of Human Resources.

All information regarding accommodation under ADA should be maintained in the department's file and the confidential files of the Associate Vice President, Office of Human Resources. The office of HR will serve as an advisor regarding ACC's obligations under ADA. *The Vice President of Human Resources should be consulted regarding ADA accommodations.*