

# **EMPLOYMENT DISCRIMINATION**

## **Is it against the law for employers to discriminate against an employee because of a disability?**

Yes. Federal and state laws both prohibit disability discrimination in employment. Although some state laws are different from federal law, Iowa state law is similar to federal law.

## **What employers are covered by these laws?**

ADA Title I provisions apply to private employers with 15 or more employees. The law also applies to state government agencies, local government offices, employment agencies, and labor unions. In Iowa, if an employer has 4 or more employees, it will be subject to the Iowa Civil Rights Act.

## **What kinds of employment discrimination are covered by the law?**

The law prohibits discrimination illegal in all employment practices. This includes job applications, hiring, firing, promotion, pay, training, and other terms, conditions, and privileges of employment. The law also applies to recruitment, advertising, layoff, leave, benefits, and all other employment-related activities.

## **What is a “disability?”**

The law defines “disability” as:

- (1) a physical or mental impairment that substantially limits one or more major life activities; or
- (2) a record of a physical or mental impairment that substantially limits one or more major life activities; or
- (3) being regarded as having a physical or mental impairment that substantially limits one or more major life activities.

“Major life activities” are things such as seeing, hearing, speaking, walking, breathing, performing manual tasks, learning, caring for oneself, and working. “Substantially limited” means that a person cannot perform the activity or is very restricted in the way the person performs the activity. A limitation must last a long time, or be permanent, in order for it to be a “substantial” limitation. An individual with epilepsy, paralysis, HIV infection, AIDS, tuberculosis, a substantial hearing or visual impairment, mental retardation, or a specific learning disability may be covered.

## **Am I covered by the discrimination laws if I am getting Social Security disability benefits?**

Maybe, but a person may qualify as having a disability for Social Security purpose, and still not have a disability as defined by the job discrimination laws. It is important to understand that just because a person has a condition that most people think of as a disability does not necessarily mean that he or she has a disability for purposes of the laws against employment discrimination. For example, many people might consider cerebral palsy to be a disability, but a person with mild cerebral palsy may not have a disability as defined by the job discrimination laws if the cerebral palsy does not substantially limit a major life activity.

### **If I am taking medicine that helps me, do I still have a “disability?”**

It depends. A person may not have a disability if that person uses corrective measures (like medication or prosthetic devices) that reduce the effects of an impairment so that it does not substantially limit a major life activity. But, many people taking medicines may still have a “disability” because they still have serious limitations, either from their impairment, or because of the side effects of their medicine.

### **When I am applying for a job, can the employer ask about my disability or make me take a medical exam?**

Usually not. An employer may not ask (or require) a job applicant to take a medical examination before making a job offer. Also, an employer cannot ask about a disability, or the nature or severity of a disability, before making a job offer. But, an employer may ask questions about the ability to perform specific job functions. The employer may also ask (with certain limitations) a person with a disability to describe or demonstrate how the person would perform these functions.

Once the employer offers a job, the employer can require that person to answer medical questions or pass a medical exam as long as the questions or exam are required of all entering employees in the same job category.

### **Sometimes it is OK for the employer to ask about my disability. Is there anything to stop my employer from telling others about my disability?**

An employer must keep all information from medical examinations and questions separate from general personnel files in a separate, confidential medical record, and those records are available only under limited conditions.

### **Can an employer give drug tests to detect the illegal use of drugs?**

Yes. Tests for illegal use of drugs are not medical examinations under the ADA and are not subject to the restrictions of such examinations.

### **Should I tell my employer that I have a disability?**

If you think you will need a reasonable accommodation, you may want tell the employer about your disability and should also tell the employer that you need an accommodation. Otherwise, many people suggest not telling your employer about any disability and accommodation until you start your job.

### **Where can I get more information about employment discrimination?**



#### **Iowa Protection and Advocacy Services, Inc.**

950 Office Park Road, Suite 221  
West Des Moines, IA 50265-2549  
toll free voice: (800)-779-2502  
toll free TTY : (866)-483-3342  
voice: 515-278-2502  
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