



LAWS GOVERNING DISABILITY ACCOMMODATION IN EMPLOYMENT

**(NOTE: Specific law information is available at websites indicated below.
This information is provided as typical and general information.)**

The Americans with Disabilities Act of 1990 (ADA):

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.

ADA Amendments Act (ADAAA) – Effective January 1, 2009:

On September 25, 2008, the President signed the Americans with Disabilities Act Amendments Act of 2008 ("ADA Amendments Act" or "Act"). 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 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;

provides that an individual subjected to an action prohibited by the ADA (e.g., failure to hire) because of an actual or perceived impairment will meet the "regarded as" definition of disability, unless the impairment is transitory and minor;

provides that individuals covered only under the "regarded as" prong are not entitled to reasonable accommodation; and

emphasizes that the definition of "disability" should be interpreted broadly.

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

For additional information, review the following website: www.eeoc.gov

Washington Law Against Discrimination (WLAD)—R.C.W. 49.60:

What is the definition of disability in the state of Washington?

As of July 21, 2007, the definition of disability, found in RCW 49.60.040 is as follows:

(25) (a) "Disability" means the presence of a sensory, mental, or physical impairment that:

- (i) Is medically cognizable or diagnosable; or
- (ii) Exists as a record or history; or
- (iii) Is perceived to exist whether or not it exists in fact.

(b) A disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, or whether or not it limits the ability to work generally or work at a particular job or whether or not it limits any other activity within the scope of this chapter.

(c) For purposes of this definition, "impairment" includes, but is not limited to:

- (i) Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, skin, and endocrine; or
- (ii) Any mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

For additional information, review the following website: www.hum.wa.gov