

## Employers and the ADA: Myths and Facts

### Common myths about how the Americans with Disabilities Act (ADA) affects employers:



**Myth:** The ADA forces employers to hire unqualified individuals with disabilities.

**Fact:** Applicants who are unqualified for a job cannot claim discrimination under the ADA. To be protected from discrimination in hiring, an individual with a disability must be qualified, meeting all requirements for a job and being able to perform its essential functions with or without reasonable accommodations.

**Myth:** When there are several qualified applicants for a job and one has a disability, the ADA requires the employer to hire that person.

**Fact:** An employer is always free to hire the applicant of its choosing as long as the decision is not based on disability. If two people apply for a data entry position for which both speed and accuracy are required, the employer may hire the person with the best speed and accuracy.

**Myth:** The ADA gives job applicants with disabilities advantages over job applicants without disabilities.

**Fact:** The ADA does not give hiring preference to persons with disabilities.

**Myth:** Employers must give people with disabilities special privileges, known as accommodations.

**Fact:** Reasonable accommodations are intended to ensure that qualified individuals with disabilities have rights in employment equal — not superior — to those of individuals without disabilities. A reasonable accommodation is a modification to a job, work environment or the way work is performed that allows an individual with a disability to apply for a job, perform the essential functions of the job, and enjoy equal access to benefits available to others in the workplace.

**Myth:** Providing accommodations for people with disabilities is expensive.

**Fact:** The majority of workers with disabilities do not need accommodations to perform their jobs. For those who do, the cost is usually minimal. According to the Job Accommodation Network (JAN), a service of the U.S. Department of Labor's Office of Disability Employment Policy, 57% of accommodations cost absolutely nothing, while the rest typically cost only \$500. Tax incentives are available to help employers cover the costs of accommodations and modifications required to make their businesses accessible to persons with disabilities.

**Myth:** The ADA places a financial burden on small businesses that cannot afford to make accommodations for individuals with disabilities.

**Fact:** Businesses with fewer than 15 employees are not covered by the employment provisions of the ADA. Furthermore, a covered employer does not have to provide a reasonable accommodation that would cause an "undue hardship." Undue hardship is defined as an action requiring significant difficulty or expense when considering factors such as an organization's size, financial resources and the nature and structure of its operation.

**Myth:** ADA lawsuits are flooding the courts.

**Fact:** The majority of ADA employment-related disputes are resolved through informal negotiation or mediation. The Equal Employment Opportunity Commission (EEOC), which enforces the ADA's employment provisions, carefully investigates the merits of each case and offers many alternatives to litigation as a way to resolve any potential problem. The number of ADA employment-related cases, whether filed privately or by the EEOC, represents a tiny percentage of the millions of employers in the U.S.

**Myth:** The ADA is frequently misused by people with vague complaints or diagnoses.

**Fact:** If an individual filing a complaint of discriminatory treatment, denial of accommodation or harassment under the ADA does not have a condition which meets its definition of disability, the complaint is dismissed. Claims by people with false or minor conditions often get considerable media attention, but the reality is these complaints are usually rejected.

**Myth:** The ADA protects employees who have difficult or rude personalities or are troublemakers.

**Fact:** Improper behavior in and of itself does not constitute a disability, and having a disability does not excuse employees from performing essential tasks and following the same conduct standards required of all employees. The courts have consistently ruled that "common sense" conduct standards, such as getting along with co-workers and listening to supervisors, are legitimate job requirements that employers can enforce equally among all employees.

**Myth:** An employer cannot fire an employee who has a disability.

**Fact:** Employers can fire workers with disabilities under three conditions:

- The termination is unrelated to the disability; or
- The employee does not meet legitimate requirements for the job, such as performance or production standards, with or without a reasonable accommodation; or
- The employee poses a direct threat to health or safety in the workplace because of his or her disability.



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auglaizedd.org  
20 E. First Street  
New Bremen, OH 45869



For more information, contact:  
Julie Herbst, Community Connections Coordinator  
jherbst@auglaizedd.org  
419-629-1502 ext.103

