

Myths and Realities of the ADA



The Internet is indeed a mixed blessing. The good news is that there's an amazing amount of information out there. The bad news is that there's an amazing amount of information out there.

As an individual with multiple sclerosis, I have of course surfed the web, looking for answers. Once I learned how to separate the truthful and credible information from the wacky and even dangerous stuff, I learned a great deal.

Much the same can be said about the current confusion regarding the Americans with Disabilities Act (ADA), the landmark law that has literally changed the American landscape. In my years investigating discrimination cases for the State of Oregon, I encountered a lot of this misinformation and saw how it negatively affected both employers and employees, often pitting them against each other.

Because it is so important that everyone gets it right, I've given a couple of examples of some of the most common areas of confusion. The ADA challenges both employers and employees to put fresh eyes on workplace tasks and determine whether they can be done in an effective (and possibly non-traditional) way. The law also requires that employers and employees work together to determine the best way for that to happen. The net result is often a workplace where everyone feels more respected.

For a great website that spells all this out in detail, go to <https://askjan.org>

MYTH:

If two people are equally qualified to perform a job, the employer must hire the one with the disability.

FACT:

The ADA does not require that an employer give preference to one applicant over another. The law simply requires that employers don't discriminate against people because they have disabilities.

Part of nondiscrimination, however, is that if an employer can make changes in the way a job is performed, and this change allows the employee to perform their duties without causing undue hardship to the employer, the employer must make those changes.

EXAMPLE:

Judith and Jonathan both apply for a cashier's position at the neighborhood drug store. Judith is more experienced, and the employer wishes to hire her. Because Judith has MS, she must sit down for at least 10 minutes every hour. There is room for a stool in the cashiering area, and Judith can perform her cashiering duties while sitting. If the employer does not hire Judith because of her MS, the employer has likely violated the ADA.

MYTH:

If an employee with a disability cannot do her job, the employer cannot fire her, but must hire someone extra or make other employees do the work.

FACT:

As with anyone else, an individual with a disability does not have an automatic right to stay in a job unless she can actually perform it. But as with the above example on hiring, the employer may have to adjust allow the employee to perform the job.

EXAMPLE:

An office receptionist with a spinal deformity cannot sit for more than an hour or so at a time. It would probably be a reasonable accommodation for the employer to let him get up and stretch his legs for a few minutes every hour. This would allow him to do the job and would result in little or no cost to the employer. But if his condition worsened to the point where he often had to leave his desk in the middle of customer calls and there was no one available to replace him, it might become an undue hardship for the employer.

Editor's Note: Learn more about the [ADA and people living with MS](#) and read this [Momentum Magazine article](#). This blog was originally published on July 2, 2019 and updated on July 6, 2022.

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