

JAN

Job Accommodation Network

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Accommodation and Compliance Series

Accommodation and Compliance Series: Association with a Person with a Disability

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Introduction

Most people know that title I of the Americans with Disabilities Act (ADA) prohibits employers from discriminating against qualified applicants and employees with disabilities and requires employers to provide reasonable accommodations for those applicants and employees as well. However, not as many people are aware that the ADA also prohibits discrimination against some employees even though they do not have disabilities. This part of the ADA is called the "Association Provision."

What is the ADA's Association Provision?

According to the Equal Employment Opportunity Commission (EEOC), the Association Provision of the ADA prohibits employment discrimination against a person, whether or not he or she has a disability, because of his or her known relationship or association with a person with a known disability. This means that an employer is prohibited from making adverse employment decisions based on unfounded concerns about the known disability of a family member or anyone else with whom the applicant or employee has a relationship or association. The ADA does not require a family relationship for an individual to be protected by the Association Provision. The key is whether the employer is motivated by the individual's relationship or association with a person who has a disability.

The EEOC provides the following examples of actions that violate the Association Provision:

Refusing to hire an individual who has a child with a disability based on an assumption that the applicant will be away from work excessively or be otherwise unreliable.

Firing an employee who works with people who are HIV-positive or have AIDS based on the assumption that the employee will contract the disease.

Denying an employee health care coverage available to others because of the disability of an employee's dependent.

Do employers have to provide a reasonable accommodation to an employee without a disability due to that person's association with someone with a disability?

No. Only qualified applicants and employees with disabilities are entitled to reasonable accommodation. For example, the ADA would not require an employer to modify its leave policy for an employee who needs time off to care for a child with a disability. However, an employer must avoid treating an employee differently than other

employees because of his or her association with a person with a disability. This means, for example, that if an employer grants leave to other similarly situated employees for care of family members without disabilities then it would be discriminatory not to grant an employee the same to care for her disabled family member. In other words, employers must give the same benefits and privileges of employment to all employees, but they do not have to give more to employees who have family members with disabilities.

- For more information, see: [Questions and Answers about the Association Provision of the ADA](#).

Situations and Solutions:

The following situations and solutions are real-life examples of accommodations that were made by JAN customers. Because accommodations are made on a case-by-case basis, these examples may not be effective for every workplace but give you an idea about the types of accommodations that are possible.

An employer allows employees to take up to two weeks of unpaid leave per year.

One employee requests a week of unpaid leave to care for her mother with a disability. Her supervisor denies the request, stating that the unpaid leave policy is not intended to cover this type of situation. A few days later, the supervisor allows another employee to take a week of unpaid leave for a father-son camp with his son. If the employer grants requests for unpaid leave for certain personal or family reasons, it is a likely a violation of the ADA's association provision to deny leave that is needed to care for a family member with a disability.

An employer who provides health insurance to the dependents of its employees learns that an applicant has a spouse with a disability.

The employer determines that providing insurance to the applicant's spouse will increase health insurance costs so decides not to hire the applicant. This is likely a violation of the ADA's association provision.

An employer decides which job applicant is the best qualified for the job opening.

However, the employer does not offer him the position because he has a child with a disability and the employer is concerned that the applicant will miss too much work because of the child. This is likely a violation of the ADA's association provision.

A restaurant owner discovers that the chef's boyfriend is HIV-positive.

Because of fear that the employee will get the disease, the owner terminates the employee. This is likely a violation of the ADA's association provision.

A part-time office worker applies for a full-time position.

She is not hired because the employer knows that the office worker's mother and sister had breast cancer and is concerned that the office worker will also get breast cancer and not be able to come to work reliably. This is likely a violation of the ADA's association provision.

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