

# JAN

Job Accommodation Network

Practical Solutions • Workplace Success

## Accommodation and Compliance Series

# Accommodation and Compliance Series: Disability- Related Laws

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## **JAN'S Accommodation and Compliance Series**

### **Americans with Disabilities Act (ADA)**

The ADA gives civil rights protections to individuals with disabilities similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in employment, State and local government services, public accommodations, transportation, and telecommunications.

- For more information, see JAN's [ADA Library](#).

### **Rehabilitation Act of 1973**

The Rehabilitation Act mandates non-discrimination by the federal government in its hiring and requires affirmative action, insures accessibility of buildings constructed with federal funds, mandates non-discrimination and affirmative action by federal contractors, prohibits discrimination in programs and activities, and requires standards for electronic and information technology.

- For more information, visit JAN's [Rehabilitation Act Library](#).

### **Age Discrimination in Employment Act (ADEA)**

The ADEA protects individuals who are 40 years of age or older from employment discrimination based on age. The ADEA's protections apply to both employees and job applicants. The ADEA permits employers to favor older workers based on age even when doing so adversely affects a younger worker who is 40 or older. It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on age or for filing an age discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under the ADEA. The ADEA applies to employers with 20 or more employees, including state and local governments. It also applies to employment agencies and labor organizations, as well as to the federal government.

- For more information, visit the [Equal Employment Opportunity Commission](#).

### **Fair Housing Act (FHA)**

The FHA prohibits housing discrimination on the basis of race, color, religion, sex, disability, familial status, and national origin. Its coverage includes private housing, housing that receives Federal financial assistance, and State and local government

housing. It also requires owners of housing facilities to make reasonable exceptions in their policies and operations to afford people with disabilities equal housing opportunities. For example, a landlord with a "no pets" policy may be required to grant an exception to this rule and allow an individual who is blind to keep a guide dog in the residence. The Fair Housing Act also requires landlords to allow tenants with disabilities to make reasonable access-related modifications to their private living space, as well as to common use spaces. (The landlord is not required to pay for the changes.) The Act further requires that new multifamily housing with four or more units be designed and built to allow access for persons with disabilities.

- For more information or to file a complaint, contact the U.S. Department of Housing and Urban Development at (800) 669-9777 (V)/(800) 927-9275 (TTY) or find a [regional office](#).
- For questions about the accessibility provisions of the Fair Housing Act, contact [Fair Housing FIRST](#) at (888) 341-7781 (V/TTY).

## **Fair Labor Standards Act (FLSA)**

The FLSA's basic requirements are payment of the minimum wage, overtime pay for time worked over 40 hours in a workweek, restrictions on the employment of children, and recordkeeping.

There are a number of employment practices that the FLSA does not regulate. For example, the FLSA does not require (1) vacation, holiday, severance, or sick pay; (2) meal or rest periods, holidays off, or vacations; (3) premium pay for weekend or holiday work; (4) pay raises or fringe benefits; (5) a discharge notice, reason for discharge, or immediate payment of final wages to terminated employees; and (6) pay stubs or "W-2's. Also, the FLSA does not limit the number of hours in a day, or days in a week, an employee may be required or scheduled to work, including overtime hours, if the employee is at least 16 years old. However, some states have laws covering some of these issues, such as meal or rest periods, or discharge notices. For more information regarding the FLSA, contact your nearest [Wage and Hour District Office](#). To find your nearest office, check your local telephone directory under U.S. Government, Department of Labor.

- For more information, visit the [U.S. Department of Labor](#).

## **Family and Medical Leave Act (FMLA)**

The FMLA requires private employers with 50 or more employees and public agencies including all state, local, and federal government employers regardless of the number of employees, to provide covered employees with up to 12 workweeks of unpaid, job-protected leave a year. It also requires these employers to maintain group health benefits during the leave as if employees continued to work instead of taking leave. To be covered by the FMLA, an employee must (1) have been employed by the employer

for at least 12 months, (2) have been employed for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave, and (3) be employed at a worksite where 50 or more employees are employed by the employer within 75 miles of that worksite.

For more information regarding the FMLA, contact the U.S. Department of Labor, Wage and Hour Division, at (866) 4-uswage ((866) 487-9243). To find your nearest office, check your local telephone directory under U.S. Government, Department of Labor or find your [state Wage and Hour office](#).

- For more information visit JAN's [Family and Medical Leave Act \(FMLA\) Library](#).

## **Genetic Information Nondiscrimination Act of 2008 (GINA)**

GINA includes two titles. Title I, which amends portions of the Employee Retirement Income Security Act (ERISA), the Public Health Service Act, and the Internal Revenue Code, addresses the use of genetic information in health insurance. Title II prohibits the use of genetic information in employment, prohibits the intentional acquisition of genetic information about applicants and employees, and imposes strict confidentiality requirements. GINA required the EEOC to issue regulations implementing Title II of the Act.

- For more information, visit the [Equal Employment Opportunity Commission](#).

## **Individual with Disabilities Act (IDEA)**

The [Individuals with Disabilities Education Act \(IDEA\)](#) is a law ensuring services to children with disabilities throughout the nation. IDEA governs how states and public agencies provide early intervention, special education and related services to more than 6.5 million eligible infants, toddlers, children and youth with disabilities.

- For more information, visit the [U.S. Department of Education](#).

## **Insurance Laws**

Most insurance issues (including health insurance and short and long term disability) are regulated by state laws. This includes information on federal laws related to insurance (COBRA, the Mental Health Parity Act, and HIPAA). For information, contact your [state insurance department](#) or check your local telephone directory under State Government, Insurance Department.

## **Occupational Safety and Health Act (OSH Act)**

The [OSH Act](#) requires employers to provide workplaces free from serious recognized hazards and to comply with occupational safety and health standards. The Occupational Safety and Health Administration (OSHA) enforces the Act.

For more information, contact the [OSHA Office](#) nearest you by calling (800) 321-OSHA (6742) (voice) or (877) 889-5627 (TTY). You may also want to find a [free OSHA consultation service](#).

## **One-Stop Centers and the Workforce Investment Act**

The [Workforce Investment Act of 1998 \(WIA\)](#) provides information to assist One-Stop service delivery systems in developing accessible infrastructures and programmatic access for people with disabilities. The passage of WIA marked the beginning of a new opportunity to develop a coordinated workforce investment system. State and local governments will be able to craft job training programs to meet identified needs within their own economies. Local workforce investment services are to be provided through One-Stop service delivery systems that will have the ability to respond to changing economic conditions within each local workforce investment area.

- For more information, visit the [U.S. Department of Labor](#).

## **Pregnancy Discrimination Act (PDA)**

The PDA is an amendment to Title VII of the Civil Rights Act of 1964. Discrimination on the basis of pregnancy, childbirth or related medical conditions constitutes unlawful sex discrimination under Title VII. Women affected by pregnancy or related conditions must be treated in the same manner as other applicants or employees with similar abilities or limitations.

- For more information, [contact the U.S. Equal Employment Opportunity Commission online](#) or at (800)669-4000 (V) and (800)669-6820 (TTY).

## **State and Local Discrimination Laws**

Many states and localities have anti-discrimination laws similar to the ADA and agencies responsible for enforcing those laws. These agencies are often called "Fair Employment Practices Agencies" (FEPAs). If you file a complaint with a FEPA and you are also covered by the ADA, the FEPA "dual files" the complaint with the EEOC to protect your federal rights. The FEPA will usually handle your complaint after letting the EEOC know about it. If you file a complaint with the EEOC and you are also covered by state or local law, EEOC dual files the complaint with your state or local FEPA, but usually handles the complaint.

- For a list of state enforcing agencies (FEPAs), visit [here](#).

## **Telecommunications Act**

Section 255 and Section 251(a)(2) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, require manufacturers of telecommunications equipment and providers of telecommunications services to ensure that such equipment and services are accessible to and usable by persons with disabilities, if readily achievable. These amendments ensure that people with disabilities will have access to a broad range of products and services such as telephones, cell phones, pagers, call-waiting, and operator services that were often inaccessible to many users with disabilities.

- For more information, contact the [Federal Communications Commission](#) at (888) 225-5322 (V) or (888) 835-5322 (TTY).

## **Ticket to Work and Work Incentive Improvement Act**

The [Ticket to Work Program](#) provides most people receiving Social Security benefits (beneficiaries) more choices for receiving employment services. Under this program, the Social Security Administration (SSA) issues tickets to eligible beneficiaries who, in turn, may choose to assign those tickets to an Employment Network (EN) of their choice to obtain employment services, vocational rehabilitation services, or other support services necessary to achieve a vocational (work) goal. The EN, if they accept the ticket, will coordinate and provide appropriate services to help the beneficiary find and maintain employment.

- For more information, contact the Social Security Administration at (800) 772-1213 (V)/(800) 325-0778 (TTY) or [online](#).

## **Title VII of the Civil Rights Act**

Title VII enforces the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.

- For more information, visit the [Equal Employment Opportunity Commission](#).

## Workers' Compensation

WC laws help ensure that employees who are injured on the job receive compensation for their injuries, without costly lawsuits. Each state has its own workers' compensation statute. Federal statutes generally only apply to federal employees.

- For a list of state workers compensation offices, visit [here](#).
- For information regarding federal workers' compensation, visit [here](#).

## 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 employee with a disability needs 14 weeks of leave for medical treatment.**

His employer grants him 12 weeks of leave under the FMLA and then 2 additional weeks of leave as an accommodation under the ADA.

**An employee with ADHD has difficulty getting her work done on time so requests to be allowed to work extra, unpaid time as an accommodation.**

The employee is paid by the hour so the employer is worried that this accommodation will violate federal wage and hour law. If providing the accommodation does violate another federal law, the employer does not have to provide the accommodation, but should still consider other accommodations that do not violate the law.

**An employee who is pregnant develops a back condition in the last trimester of her pregnancy and asks her employer for accommodations related to lifting.**

Her employer determines that she has a disability under the ADA and provides the accommodations.

**An employee is injured on the job.**

He is able to return to work in a temporary light duty position. Once the light duty job ends, his employer determines that the employee is covered by the ADA and entitled to accommodations that will enable him to return to his regular job.

**An employer, pursuant to an OSHA regulation, requires employees to wear steel-toed boots and supplies a specific brand of boots.**

An employee with diabetes has difficulty wearing the boots and asks to be allowed to wear a different brand. The employer determines that the brand the employee has chosen complies with OSHA regulations so the employer supplies the different boots for the employee as an accommodation.



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