

THE AMERICANS WITH DISABILITIES ACT

TIPS FOR COMPLIANCE

The federal [Americans with Disabilities Act \(ADA\)](#) is a comprehensive anti-discrimination statute that prohibits discrimination against disabled individuals in private employment, state and local government employment, public accommodations, public transportation, state and local government services, and telecommunications.

[Title I](#) of the ADA prohibits discrimination against any qualified individual with a disability because of that individual's disability in regard to:

- job application procedures;
- the hiring, advancement or discharge of employees;
- compensation;
- job training;
- and other terms, conditions, and privileges of employment.

Employers with 15 or more employees, employment agencies, labor organizations, and joint labor-management committees are subject to the ADA.

The [New Hampshire Law Against Discrimination](#) found at RSA 354-A tracks this federal ADA law and imposes equivalent obligations on **employers with six (6) or more employees**.

REQUIREMENTS

In sum, employers covered by the ADA (or the state law equivalent) must ensure that people with disabilities:

- have an equal opportunity to apply for jobs and to work in jobs for which they are qualified;
- have an equal opportunity to be promoted;
- have equal access to benefits and privileges of employment that are offered to other employees; and
- are not harassed because of their disability.

Further, an employer is also required to provide a reasonable accommodation if a person with a disability needs one in order to apply for a job, perform a job, or enjoy benefits equal to those offered to other employees. An employer does not have to provide any accommodation that would pose an undue hardship.

COMPLIANCE TIPS

To achieve compliance with these laws against discrimination, nonprofit employers are encouraged to take the following steps:

If you have questions regarding the issues discussed in this article please do not hesitate to contact any of the lawyers in Devine Millimet's Labor and Employment Practice Group through the NH Center for Nonprofit's Hotline service. Just call 603.695.8582 or e-mail nhnonprofits@devinemillimet.com.

Adopt an ADA Policy and/or Review/Update Discrimination and Reasonable Accommodation Policies

Employer policies should advise employees of their right to request an accommodation, and identify the process for requesting such an accommodation.

Create Job Descriptions

Employers should regularly review job descriptions to ensure all essential functions of the position are reflected and are consistent with the needs of the business. Publishing accurate, current job descriptions provides an effective way to meet ADA requirements and can help reduce liability exposure.

Train Managers and Supervisors

Managers and supervisors with direct reports should receive adequate training on the ADA and the regulations in order to respond appropriately to disability mentions and accommodation requests. The manager or supervisor is often the first person to learn of a need for an accommodation and he/she must know how to spot the issue and ensure compliance with the ADA.

Designate an ADA Point Person

One person in the nonprofit should be identified in the policy/handbook as the “point person” on the ADA and know how to engage in the required interactive process required by the ADA

FMLA/WC/ADA Overlap

ADA issues are frequently missed when the employee has exercised his/her right initially under a different law, such as the Family and Medical Leave Act or the state worker’s compensation act. Whenever an employee has a medical issue impacting the workplace, the employer should assess its obligations under the ADA. A frequent problem occurs when an employee has exhausted his/her rights under the FMLA, and the employer fails to consider the employee’s rights to an extension of the leave as an accommodation under the ADA.

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