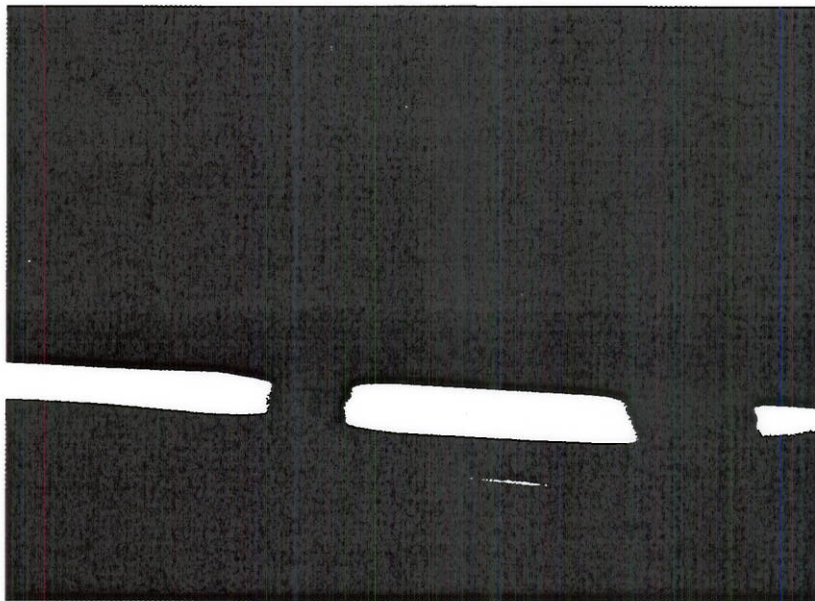


SMART MOVE:



AN EMPLOYER'S
LEGAL GUIDE
TO HIRING PEOPLE
WITH DISABILITIES



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THE AMERICANS WITH DISABILITIES ACT

The Americans with Disabilities Act (ADA) prohibits discrimination against qualified individuals with disabilities. The determination of whether an individual with a disability is "qualified" should be made in two steps. The first step is to determine if the individual satisfies the prerequisites for the position, such as possessing the appropriate educational background, employment experience, skills, etc. The second step is to determine whether the individual can perform the essential (as opposed to marginal) functions of the position held or desired, with or without reasonable accommodation by the employer.

Myth #1:

PEOPLE WITH DISABILITIES CAN'T DO THE JOB.

WRONG! Studies show they can do the job. E.I. DuPont (US) conducted a survey of employers who reported performance ratings of average or above average for 90% of workers with disabilities. And a Harris poll of 920 employers found 88% of workers with disabilities earned performance ratings of good or excellent.

Here are a few facts about the ADA:

- Employers with 15 or more employees must comply with the ADA.
- An individual with a disability is someone with mental or physical impairments that substantially limit a major life activity, such as:

- Caring for one's self
- Performing manual tasks
- Hearing
- Breathing
- Working
- Seeing
- Walking
- Speaking
- Learning

- The ADA does not require employers to eliminate "essential" job duties, lower production standards, or overlook violations of policy when accommodating individuals with disabilities.
- The applicant or employee must be able to perform the essential functions of the job. "Essential" functions are the primary duties of the position that must

be performed for the job to be done. Employers should identify the essential function of the jobs and document them, preferably in a written job description.

A SMART RETURN ON YOUR INVESTMENT

Reasonable Accommodations Do Not Have To Be Costly.

Reasonable accommodations range from providing a step stool to allowing flexible schedule. Reasonable accommodations do not include eliminating primary job responsibility, lowering production standards applied to all employees, or anything that would be considered an "undue hardship" on an employer. In other words, accommodating disabled individuals at work does not have to be costly to be reasonable under the ADA. Ideally, everyone benefits: disabled individual becomes gainfully employed and the employer gets a good, hardworking employee. Nevertheless, an employer does not have to accommodate an individual with a disability if it would create an "undue hardship." Most accommodations do not require a significant financial investment or create an undue hardship on the employer.

Work Opportunity Tax Credit

While providing a productive work environment for a disabled individual, companies can take advantage of federal assistance under the Work Opportunity Tax Credit. This tax credit allows an employer to receive up to 40% of the first \$6,000 in first-year wages per qualifying employee. The maximum credit per employee is \$2,400 per year. Small employers receive 100% of this credit for employees who work at least 400 hours during the year and 25% of the credit for those who work at least 20 hours, but less than 400 hours in a year.

This credit is received when an employer hires an individual receiving Supplemental Security Income (SSI) or who is a certified vocational rehabilitation participant (VRP). The employer must receive

Myth #2:

PEOPLE WITH DISABILITIES CAN'T WORK AS HARD AS OTHER EMPLOYEES.

The Harris study also showed that 33% of employers say people with disabilities work as hard as other employees; 46% say people with disabilities actually work harder.

certification from the South Carolina
Employment Security Commission. For
further information, visit
www.ttrc.dolets.gov/common/directories.

Barrier-Removal Tax Deduction

The IRS allows a deduction of up to
\$15,000 annually for expenses incurred
for the removal of physical, structural, and
transportation barriers for persons with
disabilities. The deduction covers
expenses such as:

- Providing parking spaces, ramps,
and curb cuts;
- Constructing accessible telephones, water fountains,
and restrooms for individuals confined to wheelchairs;
- Widening walkways; or
- Providing accessible entrances to buildings.

This deduction may not be used for expenses incurred for new construction, facility
renovation, or replacement of depreciable property. For information, refer to the
instructions found in IRS Publications 907 and 535, "Business Expenses."

4. Disabled Access Credit

Businesses that earn \$1 million or less in gross receipts or have 30 or fewer full-time
employees are eligible for a tax credit of 50% of the expenditures over \$250, not to
exceed \$10,250, for a maximum benefit of \$5,000. The credits can be used every
year to cover expenses related to making the business accessible to disabled

Myth #4:

**IT'S ALMOST IMPOSSIBLE TO INTERVIEW PEOPLE WITH DISABILITIES
BECAUSE IT'S SO EASY TO BREAK HUMAN RIGHTS LAWS.**

Interviewing is easy. The key is to focus on abilities rather than disabilities. Ask the same
job-related questions that you ask other applicants. And once you've hired people with
disabilities, there's a good chance they'll stay. Pizza Hut Corporation finds that workers
with disabilities are five times more likely to stay than people without disabilities.

Myth #3:

**HIRING WORKERS WITH DISABILITIES
MEANS YOU HAVE TO REDESIGN YOUR
FACILITIES AND BUY SPECIAL
EQUIPMENT.**

In fact, the most common accommodations—changes
in job duties and modified hours—are basically free. A
1991 Statscan survey confirmed that only four percent
of workers with disabilities required changes to
physical facilities and, according to the US-based Job
Accommodation Network, two-thirds of aids and
modifications cost less than \$500.

dividuals, but not to cover the cost of new construction or modification of a building put in service after November 1990. The credit can be used for costs such as:

- Purchasing modification or adaptable equipment;
- Printing materials in formats such as Braille, audio tape, or large print;
- Removing architectural barriers in buildings or vehicles; or
- Providing support to an employee with a disability such as the use of a co-worker or a job coach.

It is important to note that a business may not take a tax deduction and a tax credit on the same expenditure. For more information on the Disabled Access tax credit, refer to IRS Form 8826.

S.C. Second Injury Fund Protects Employers

The South Carolina Second Injury Fund (SIF) reimburses employers or their insurance carriers in certain instances when an employee with a prior permanent physical impairment is injured on the job. Howard Victry, the first executive director of the South Carolina SIF, notes that "the SIF is designed to encourage the employment of the physically handicapped by protecting employers from excessive liability for compensation and medical expense when a handicapped worker is injured on the job. In turn, the cost of the Second Injury Fund program is spread among all carriers and self-insured."

Insurance Rates Stable

According to a study conducted by Cornell University, human resource managers report that their company's health, life and disability costs rarely rise in response to hiring people with disabilities.

Myth #5: IF WORKERS WITH DISABILITIES CAN'T, OR WON'T, DO THE JOB, YOU CAN'T GET RID OF THEM.

NOT TRUE! Establish clear performance expectations from the start. If a performance problem does occur, follow your company's usual guidelines: discuss the problem with the worker, look for solutions, document the situation and, if necessary, terminate the employment agreement.

Myth #6: WORKERS WITH DISABILITIES ARE MORE LIKELY THAN OTHER WORKERS TO GET SICK.

The DuPont study showed 86% of employees with disabilities have average or above average attendance records and the Harris survey found 39% of workers with disabilities to be more reliable than other workers.



A PARTNERSHIP TO
INFORM SOUTH CAROLINA BUSINESSES
ABOUT THE BENEFITS OF RECRUITING AND HIRING
PEOPLE WITH DISABILITIES.

SC DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS
SC CHAMBER OF COMMERCE
SC DEPARTMENT OF VOCATIONAL REHABILITATION
SC PARTNERSHIP OF DISABILITY ORGANIZATIONS
SC DEVELOPMENTAL DISABILITIES COUNCIL, OFFICE OF THE GOVERNOR

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