

# *The Americans with Disabilities Act: A Legal Update*

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# *Americans with Disabilities Act*

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## *Overview*

*P Title I prohibits discrimination in employment against qualified individuals with a disabilities*

- < Who is a Aqualified individual @?*

- < What is a disability?*

*P Requires employers to provide reasonable accommodations to qualified individuals with disabilities*

*P Remedies for violations include:*

- < Reinstatement*

- < Backpay*

- < Equitable relief*

- < Compensatory damages*

- < Punitive damages*

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## *ADisability @*

*P A physical or mental impairment that substantially limits a major life activity*

*P An record of such an impairment*

*P Being regarded as having such an impairment.*

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## *A Disability @*

*PA Substantially @ limits one or more major life activities*

*< Life activities = caring for oneself, walking, seeing, hearing, speaking, breathing, learning, reproduction, working*

*< ASubstantially limits @ depends on*

*B Nature and severity of impairment*

*B Duration of impairment*

*B Permancy/Long-term impact of impairment*

*PMajor life activity of working*

*< Geographical area*

*< Types of jobs individual is disqualified from*

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*ADisability @*

*PA Arecord @ of a Adisability @*

*<History of Adisability @*

*<Misclassified as having a Adisability @*

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## *ADisability @*

*PBeing Aregarded as @having a Adisability @*

*<Have impairments that are not substantially limiting,  
but are erroneously regarded as have such*

*<Have impairments that are substantially limiting only  
because of the attitudes of others*

*<Have no impairment, but are erroneously regarded  
as having a substantially limiting impairment*

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*A Qualified individual with a Disability @*

*ADA prohibits discrimination against a  
Qualified individual with a Disability @  
Qualified @*

*<An individual with a disability who, with or without  
reasonable accommodation, can perform the essential  
functions of the job.*

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## *Developments*

*P Title I of the ADA does not apply to State employees*

*P While 8th Circuit avoids the issue, the 5th Circuit becomes first court of appeals to recognize cause of action for harassment under ADA*

*P Employers that refuse to reinstate employees with work restrictions as a matter of policy may violate the ADA*



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## *Developments*

*P Collective bargaining agreement may be evidence of essential functions of job*

*P Employee who is unable to work overtime because of an impairment is not substantially limited in the major life activity of working*

*P Job descriptions provide important evidence of essential functions of job*

*P Essential functions can include personal presence in office*

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## *Developments*

*P Failure to transfer allergy sufferer to different region may violate ADA.*

*P Employer's duty to accommodate mental illness often limited.*

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