

LAW STUDENTS WITH DISABILITIES WORKSHOP

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RESOURCE MANUAL

DISABILITY INDEPENDENCE GROUP
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EMPLOYMENT RIGHTS AND RESPONSIBILITIES RELATED TO PERSONS WITH DISABILITIES IN THE WORKPLACE

Title I of the American With Disabilities Act of 1990 (ADA)

Title I of the Americans With Disabilities Act of 1990 (ADA), prohibits private employers, state and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions and privileges of employment. Title I also requires that an employer must make a reasonable accommodation for an employee's disability when such accommodation is necessary for the employee to do the requirements of the job or to participate in job-related activities. Title I covers all private employers, state and local governments, and education institutions that employ 15 or more individuals. An individual with a disability is a person who:

- Has a physical or mental impairment that substantially limits one or more major life activities;
- Has a record of such an impairment; or
- Is regarded as having such an impairment.

Any person who feels that they have been denied their employment rights under the ADA should consult with an attorney or pursue a Complaint with the U.S. Equal Employment Opportunity Commission (EEOC). The EEOC is a federal government agency that investigates complaints of discrimination under the ADA. Some of the remedies for discriminatory actions by an employer are back pay, front pay, compensatory damages, the right to get your job back, etc. The contact information for the EEOC is as follows:

U.S. Equal Employment Opportunity Commission
1801 L Street, N.W.
Washington, D.C. 20507
Phone: (202) 663-4900
TTY: (202) 663-4494
www.eeoc.gov

The EEOC has headquarters in Washington, D.C. but it also has offices in numerous locations throughout the United States and its territories. Once you contact the EEOC, you can be directed to the appropriate office.

Title II of the American With Disabilities Act of 1990 (ADA)

Title II of the ADA prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities. Entities covered by Title II include all State and local governments, their departments and agencies, and any other

instrumentalities or special purpose districts of State or local governments, including activities of Courts, State legislatures, town meetings, and employment. Methods to achieve program access for persons with disabilities may include methods of effective communication, modifications of policies, practices and procedures, and some physical or structural alteration of existing facilities. There are many factors to be considered. The U.S. Department of Justice (www.usdoj.gov) is responsible for regulations and implementation of Title II of the ADA.

There are several other Titles to the ADA, however the above two are the ones that most often arise in employment situations. Title III of the ADA covers Public Accommodations (i.e., private entities that own, operate, lease, or lease to places of public accommodation) and requires basic accessible design and constructions standards for new construction as well as for modifications of existing constructions. (See www.ada.gov)

Florida Civil Rights Act of 1992

The protections under the ADA are also codified in the State of Florida as the Civil Rights Act of 1992, which prohibits discrimination based on disability and several other protected categories. This law is enforced by the State of Florida Commission on Human Rights, a state agency. Any person who feels that they have been denied their rights under the Florida Civil Rights Act should consult with an attorney or may pursue a Complaint with the Florida Commission on Human Rights (FCHR). Similar to federal law, some of the remedies for discriminatory actions by an employer are back pay, front pay, compensatory damages, the right to get your job back, etc.

The contact information for the FCHR is as follows:

Florida Commission on Human Rights
2009 Apalachee Parkway, Suite 100
Tallahassee, FL 32301
Phone: (850) 488-7082
TDD ASCII: (800) 955-1339
TDD Baudot: (800) 955-8771
<http://fchr.state.fl.us>

The Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability by any recipient of federal financial assistance. Sections 501 and 504 of The Rehabilitation Act of 1973 protect persons with disabilities from being treated differently in employment situations or from being denied participation if programs or activities of programs receiving federal funds. Most of these employers have internal procedures for pursuing a discrimination complaint. If you are a federal employee, you should check with your employer for the contact information for the internal Equal Opportunity Office for your respective employer.

Family and Medical Leave Act

The Family and Medical Leave Act (FMLA) provides certain employees with up to 12 weeks of unpaid, job-protected leave per year. It also requires that their group health benefits be maintained during the leave.

FMLA is designed to help employees balance their work and family responsibilities by allowing them to take reasonable unpaid leave for certain family and medical reasons. It also seeks to accommodate the legitimate interests of employers and promote equal employment opportunity for men and women.

FMLA applies to all public agencies, all public and private elementary and secondary schools, and companies with 50 or more employees.

For more information on FMLA, you can contact the U.S. Department of Labor at the following:

U.S. Department of Labor
Frances Perkins Building
200 Constitution Avenue, NW
Washington, DC 20210
Phone: (800) 487-2365
TDD: (877) 889-5627
<http://www.dol.gov/dol/topic/benefits-leave/fmla.htm>

Please note that if you are a federal employee, your FMLA is administered through the U.S. Office of Personnel Management and you can visit the following website for more information, <https://www.opm.gov/oca/leave/HTML/fmlafac2.asp>

Finally, please note that there are numerous counties, municipalities and cities throughout Florida and other states with local ordinances and Equal Opportunity Offices that protect employees with disabilities from being discriminated against in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions and privileges of employment.

ORGANIZATIONS THAT PROVIDE SUPPORT AND INFORMATION FOR LAW STUDENTS AND EMPLOYEES WITH DISABILITIES

Online Recruiting Guide

WORKSUPPORT.COM offers a detailed guide on recruiting qualified workers with disabilities into your business. This site provides information and research on disability and work issues. This guide offers several useful tips on how to become an employer to the disability community. To access the recruiting guide, visit www.worksupport.com/topics/guide.asp

Department of Education, Office of Civil Rights

The U.S. Department of Education, Office of Civil Rights (OCR) is the enforcing authority for Section 504 of the Rehabilitation Act with regard to post-secondary schools. If you are dissatisfied with the outcome from using the school's grievance procedures or as an alternative to the grievance procedures, OCR provides a complaint procedure and an enforcement mechanism. For additional information, visit www.ed.gov/ocr

Employee Assistance Referral Network

Employee Assistance Referral Network (EARN) is a nationwide, *free* Internet service that links employers to qualified individuals with disabilities. EARN connects employers who have job vacancies to employment referral services who will find workers in your area. EARN is sponsored by the U.S. Department of Labor and the Office of Disability Employment Policy. For more information about EARN, visit www.earnworks.com.

New Directory for Assistive Technology

Assistive Technology News and the Concurrent Technology Corporation (CTC) Foundation created a comprehensive directory of assistive technology manufacturers. The directory Assistive Technologies: Creating a Universe of Opportunities for People with Disabilities represents hundreds of manufacturers from the U.S., Canada, Europe and Asia.

Employers are now better equipped to utilize the abilities of those with disabilities. The directory is easily accessible and offers a wide range of products for the speech impaired, blind, and those with physical or mobility disabilities.

The directory is available in print, digital format (CD) or a password protected website. For a sample of the directory, an order form or for more information visit Assistive Technology News and the CTC Foundation online at www.atn-ctcf.org.

The Job Accommodation Network

<http://www.jan.wvu.edu/>

The Job Accommodation Network (JAN) is the nation's premier source for information on practical job accommodation solutions and technical assistance on the Americans with Disabilities Act. JAN is a service of the U.S. Department of Labor's Office of Disability Employment Policy.

The Job Accommodation Network's Searchable Online Accommodation Resource (SOAR) system is designed to let users explore various accommodation options for people with disabilities in work and educational settings.

JAN E-News is the quarterly newsletter of the Job Accommodation Network. This newsletter will help keep you informed of new work site accommodation tools and techniques, changes at JAN, and other issues important to improving employment opportunities for people with disabilities.

To subscribe to JAN E-News, just e-mail subscribe@jan.wvu.edu.

Information Guide and Mentoring Online

HireAbilities is designed not only to help people with disabilities seeking professional employment locate jobs, it also educates employers about the disability community and defines the benefits of disability diversity in the workplace. HireAbilities is also offering a new program called PREP (Professionals Reaching out to Emerging Professionals). This is an online mentoring program designed to match students with professionals in their chosen career field. For information about disability diversity or PREP, visit www.hireabilities.org.

Southeast Disability and Business Technical Assistance Center is one of ten Regional Disability and Business Technical Assistance Centers that offers five core services to promote awareness about the Americans with Disabilities Act (ADA), accessible information technology (IT), and the rights and abilities of people with disabilities. Their website is <http://www.sedbtac.org/about/index.cfm> This website also has a page with a collection of more than 7,000 documents and articles on the ADA. <http://www.adaportal.org/>

The American Bar Association also has a **Commission on Mental and Physical Disability Law**. Their purpose is "to promote the ABA's commitment to justice and the rule of law for persons with mental, physical, and sensory disabilities and to promote their full and equal participation in the legal profession." Their website is www.abanet.org/disability and is an excellent and well compiled collection of articles, surveys, links to resources, publications, a Disability Lawyers Directory, etc.

The National Association of Law Students With Disabilities (NALSWD) is a coalition of law students dedicated to disability advocacy and the achievement of equal access, inclusion, diversity and non-discrimination in legal education and in the legal profession. Their website is <http://www.nalswd.org/> and their e-mail address is nalswd@gmail.com. They are a newly formed group, but an excellent group for any law student with a disability to consider becoming involved in.

Florida Lawyers Assistance, Inc. (FLA) is a non-profit corporation formed in 1986 in response to the Florida Supreme Court's mandate that a program be created to identify and offer assistance to bar members who suffer from substance abuse, mental health, or other disorders which negatively affect their lives and careers. FLA is independent of The Florida Bar, although it does receive funding from that organization. Paramount to FLA is the protection of confidentiality for those attorneys who contact FLA for help. Judges, attorneys, law students, and support personnel who seek the assistance of FLA need not worry that FLA will report them to the Bar, the Board of Bar Examiners, or their employer. Information is shared with these entities *only* if the participating individual signs a waiver of confidentiality. FLA's primary purpose is to assist the impaired attorney in his or her recovery.

Florida Lawyers Assistance (FLA) takes the firm position that substance abuse, compulsive behavior, and psychological problems are treatable illnesses rather than moral issues. Their experience has shown that the only stigma attached to these illnesses is an individual's failure to seek help. FLA believes it is the responsibility of the legal community to help our colleagues who may not recognize their need for assistance. Their website is <http://www.fla-lap.org/> and their phone contact information is (800) 282-8981 or (954) 566-9040

ARTICLES OF INTEREST TO PERSONS WITH DISABILITIES IN THE WORKPLACE

- The National Conference on the Employment of Lawyers with Disabilities, May, 2006, Conference Report at http://www.abanet.org/disability/docs/conf_report_final.pdf
- The Disability Independence Group and the Florida Bar conducted a survey of lawyers with disabilities in Florida in 2006. The reports are available on the Florida Bar web site, www.floridabar.org/diversity. There are three reports available: The Disability Independence Group Survey Report, The Florida Bar Data Report, and The Executive Summary of the Disability Independence Group Report.
- Goal IX 2008 Report on the status of the participation of persons with disabilities in ABA Division, Section, and Forum leadership positions. <http://www.abanet.org/disability/docs/2008GoalIX.pdf>
- The Disclosure Of Disability In a Job Interview- National Association for Law Placement. http://www.nalp.org/assets/library_2/436_0906disabilitydisclosure.pdf
- Beyond Accessibility: Accommodation and Affirmation When Dealing With Disability. http://www.nalp.org/assets/library_2/327_0601access.pdf
- Reasonable Accommodations for Attorneys with Disabilities and the Accommodations Procedure at the EEOC. <http://www.eeoc.gov/facts/accommodations-attorneys.html>
- Reasonable Accommodations for Attorneys with Disabilities, Matthew W. Dietz, Florida Bar Journal, Volume 81, # 4, April, 2007. <http://www.floridabar.org/DIVCOM/JN/JNJournal01.nsf/76d28aa8f2ee03e185256aa9005d8d9a/0444e215e946df4b852572ad0054bffd>
- ABA Legal Technology Resource Center: Efforts to ensure that websites are accessible to disabled persons, simply referred to as "web accessibility," allow people with disabilities to perceive, understand, navigate the web in fully accessible formats. <http://www.abanet.org/tech/ltrc/fyidocs/webaccessibility.html>
- EEOC Enforcement Guidance on the Americans with Disabilities and Psychiatric Disabilities. <http://www.eeoc.gov/policy/docs/psych.html>
- Job Accommodations for Lawyers with Disabilities, Job Accommodation Network, <http://www.jan.wvu.edu/media/lawyersfact.doc>

- Accommodation Fact Sheet Series, Job Accommodation Network, <http://www.jan.wvu.edu/media/fact.html>
- Questions and Answers about Deafness and Hearing Impairments in the Workplace and the Americans with Disabilities Act <http://www.eeoc.gov/facts/deafness.html>
- Tax Incentive Packet for Improving Accessibility for customers and employees with disabilities <http://www.usdoj.gov/crt/ada/taxpack.htm>
- Articles on Professional Licensing Issues for persons with disabilities http://www.sedbtac.org/ada/publications/legal/professional_licensing_disability_AD_A_TitleII.txt
- Questions and Answers about Service Animals for persons with disabilities can be found at <http://www.deltasociety.org/ServiceAccessDenied.htm>