

South Carolina Human Affairs Commission

Technical Services and Training Division



Prevention Corner



An ounce of Prevention is Worth a Pound of Cure.

~Benjamin Franklin

OCTOBER 2021

South Carolina
Human Affairs Commission
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The South Carolina Human Affairs Commission strives to alleviate problems of discrimination through the enforcement of the SC Human Affairs Law (including the SC Pregnancy Accommodations Act), the SC Fair Housing Law, the SC Equal Enjoyment and Privileges to Public Accommodations Law and the SC Lactation Support Act.

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AMERICANS WITH DISABILITIES ACT

The Americans with Disabilities Act (ADA) was signed into law in 1990 and amended in 2008 to expand protections to persons with disabilities against discrimination and harassment.

State and Local Government

It is the policy of this State (South Carolina) to encourage and enable the blind, the visually handicapped, and the otherwise physically disabled to participate fully in the social and economic life of the State and to engage in remunerative employment.

The Governor shall take all actions necessary pursuant to 29 U.S.C. Section 732 to designate Protection and Advocacy for People with Disabilities, Inc., formerly known as the South Carolina Protection and Advocacy System for the Handicapped, Inc., as the South Carolina administrator of the Client Assistance Program.

<https://www.disabilityrightssc.org/>

Disability: Who is Protected by the ADA?

The ADA protects *qualified individuals with disabilities*. An *individual with a disability* is a person who:

- Has a physical or mental impairment;
- impairment substantially limits one or more *major life activities*, such as performing manual tasks, breathing, walking, reading, thinking, seeing, hearing, or working;
- has a record of such impairment;
- or, is regarded as having such an impairment.

Resources: www.ada.gov; www.statehouse.gov; S.C. Human Affairs Commission

**If you feel like you have experienced discrimination,
contact us for help.**

(800) 521-0725, Relay 711

How can I schedule training?

Contact us at:

(803) 737-7800 or (800) 521-0725, Relay 711

email: training@schac.sc.gov

The Americans with Disabilities Act (ADA):

- Protects individuals from discrimination on the basis of their disability.
- Requires employers to provide reasonable accommodations to qualified individuals with a disability.
- A *reasonable accommodation* is any modification or adjustment to a job, or work environment that allows an individual with a disability to participate equally in an employment opportunity.



- The ADA covers employers with 15 or more employees, including state and local governments.
- Employers must comply with the federal employment protections for people with disabilities.
- It also applies to employment agencies and to labor organizations.

State and Federal Laws protect people with disabilities from being discriminated against at work, in housing, and in public places.

Employment

The law forbids discrimination when it comes to any aspect of employment, including:

- Hiring
- Firing
- Pay (*Being paid less*)
- Job Assignments
- Promotions
- Layoff
- Training
- Fringe benefits
- Any other term or condition of employment

Housing

The Fair Housing Act prohibits discrimination on the basis of disability in all types of housing transactions including:

- Sale
- Rental
- Financing of dwellings
- Other housing related transactions

Applies to:

- Landlords
- Realtors
- Mortgage Brokers
- Insurance Agents
- Zoning Codes

Disability Harassment: It is illegal to harass an applicant or employee because they have a disability, had a disability in the past, or is believed to have a physical or mental impairment that is not transitory (lasting or expected to last six months or less) and minor (even if he or she does not have such an impairment).

Harassment can include, for example, offensive remarks about a person's disability.

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

Resources: U.S. Equal Employment Opportunity Commission; S.C. Human Affairs Commission



Disability: Potential Discriminatory Practices

EMPLOYMENT

Employment:

A national package delivery company violated federal law, said the EEOC, when it treated a truck driver who was unable able to drive after suffering a minor stroke less favorably than drivers who'd lost the right to drive due to driving while intoxicated.

The truck driver began working for the company in 2006. After suffering a minor stroke in 2013 and disclosing it during his annual driver physical examination, he was unable to renew his required Department of Transportation (DOT) medical examiner's certificate.

During the nine-month period when he was without a certificate, he sought unsuccessfully to be treated the same as workers who couldn't drive because of convictions for driving while intoxicated.

Resource: U.S Equal Employment Opportunity Commission

HOUSING

Housing:

Many Housing Units Have Accessibility Requirements:

John, a person with a disability who uses a wheelchair, views a condominium he is hoping to purchase in a new multistory building. When John arrives, he finds there are no accessible parking spaces in the building's parking lot. When John tries to enter the unit, his wheelchair can barely fit through the door and he bangs his arms on the way in. Inside the unit, the thermostat and light switches are all too high for him to reach. The building has a fitness room, but he cannot look at it because the only way to get to the fitness room is to go up steps. John files a complaint with HUD because failing to comply with accessibility requirements is a form of disability discrimination.

Resource: www.hud.gov/program



Service Animals

A service animal is any dog (in some cases, miniature horses) that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

Other species of animals, whether wild or domestic, trained, or untrained, are not considered service animals

The work or tasks performed by a service animal must be directly related to the individual's disability.

Examples of work or tasks include, but are not limited to:



- Assisting individuals who are blind or have low vision with navigation and other tasks.
- Alerting individuals who are deaf or hard of hearing to the presence of people or sounds.
- Pulling a wheelchair.
- Assisting an individual during a seizure.
- Retrieving items such as medicine or the telephone.

Miniature Horses

A public entity or private business must allow a person with a disability to bring a miniature horse on the premises as long as it has been individually trained to do work or perform tasks for the benefit of the individual with a disability. However, an organization can consider whether the facility can accommodate the miniature horse based on the horse's type, size, and weight. The rules that apply to service dogs also apply to miniature horses.

What Questions Can Someone Legally Ask About Service Animals?

Two Questions Only!

To determine if an animal is a service animal, a public entity or a private business may ask two questions:

- **Is this animal required because of a disability?**
- **What work or task has this animal been trained to perform?**

These questions may not be asked if the need for the service animal is obvious (e.g., the dog is guiding an individual who is blind or is pulling a person's wheelchair).

A public entity or private business may not ask about the nature or extent of an individual's disability or require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, or require the animal to wear an identifying vest.



Q. Does the ADA require service animals to be professionally trained?

A. No. People with disabilities have the right to train the dog themselves and are not required to use a professional service dog training program.

Q. Do service animals have to wear a vest or patch or special harness identifying them as service animals?

A. No. The ADA does not require service animals to wear a vest, ID tag, or specific harness.

Q. Does the ADA require that service animals be certified as service animals?

A. No. Covered entities may not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal, as a condition for entry.

There are individuals and organizations that sell service animal certification or registration documents online.

These documents do not convey any rights under the ADA and the Department of Justice does not recognize them as proof that the dog is a service animal.

Q. My city requires all dogs to be registered and licensed. Does this apply to my service animal?

A. Yes. Service animals are subject to local dog licensing and registration requirements.

Q. Can service animals be any breed of dog?

A. Yes. The ADA does not restrict the type of dog breeds that can be service animals.

Q. Are churches, temples, synagogues, mosques, and other places of worship required to allow individuals to bring their service animals into the facility?

A. No. Religious institutions and organizations are specifically exempt from the ADA. However, there may be State laws that apply to religious organizations.



Answers to your questions about Pregnancy Discrimination and Lactation Support in the workplace.

Is Pregnancy a Disability under the Americans with Disabilities Act?

According to the U.S. Equal Employment Opportunity Commission (EEOC), although pregnancy is not a disability, pregnant workers may have impairments related to their pregnancies that qualify under the ADA. Amendments to the ADA made in 2008 make it much easier than it used to be to show an impairment is a disability.

Several pregnancy-related impairments likely to be disabilities, even though they are temporary, include:

- Gestational Diabetes
- Pregnancy-related sciatica
- Pregnancy-related carpal tunnel syndrome
- Preeclampsia



An employer may not discriminate against an individual whose pregnancy-related impairment is a disability under the ADA and must provide an individual with a reasonable accommodation, if needed, because of a pregnancy-related disability, unless the accommodation would result in significant difficulty or expense (“undue hardship”).

Pregnancy Disability and Temporary Disability

If a woman is temporarily unable to perform her job due to a medical condition related to pregnancy or childbirth, the employer or other covered entity must treat her in the same way as it treats any other temporarily disabled employee.

For example, the employer may have to provide light duty, alternative assignments, disability leave, or unpaid leave to pregnant employees if it does so for other temporarily disabled employees.

Resource: U.S Equal Employment Opportunity Commission

PREVENTION CORNER

Ways to Prevent Disability Discrimination

1. Follow the requirements set forth by the Americans with Disabilities Act.
2. Post a notice describing the provisions of the ADA. The notice must be accessible to applicants and all employees.
3. Examine your company's policies, history, and culture to correct any current problems and prevent any new ones.
4. Provide regular education and training to all employees about discrimination in the workplace and how to be respectful toward all their coworkers.
5. Review regularly whether any occupational requirement applied to a particular job is still valid.
6. Document everything. There should be clear documentation of complaints of discrimination.
7. Take immediate action to address complaints.

Resources: www.ada.gov; S.C. Human Affairs Commission; U.S Equal Employment Opportunity Commission

COVID-19 and the Americans with Disabilities Act (ADA)

The EEO laws, including the ADA, continue to apply during the time of the COVID-19 pandemic, but do not interfere with or prevent employers from following the guidelines and suggestions made by the CDC or state/local public health authorities about steps employers should take regarding COVID-19. Resource: www.eeoc.gov

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**The mission of the South Carolina Human Affairs Commission is to
Prevent and Eliminate Unlawful Discrimination in Employment,
Housing, and Public Accommodations.**